THE SEVENTY-NINTH DAY

CARSON CITY (Tuesday), April 21, 2009

Senate called to order at 11:48 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Larry Unterseher.

Father God, in the quietness of this Chamber, we stand humbly in Your presence asking Your blessing on the activities of this day. Each of these men and women of valor stand eager and willing to face the challenges set before them. Give them the ability to see through Your eyes as they continue to cast the vision for us now and for future generations to come.

Lord, if there is personal pain that these men and women are enduring, I pray that You give them the comfort they need and relieve them of these distractions so they may tackle this day's agenda with clarity of mind.

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 Assembly Bills Nos. 133, 509, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 119, 283, 288, 310, 320, 364, 365, 388, 397, 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 Health and Education, to which was referred Senate Bill No. 393, 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. 157, 330, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 20, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 6, 10, 25, 40, 63, 74, 84, 95, 101, 121, 130, 135, 140, 144, 147, 159, 176, 179, 186, 192, 208, 215, 224, 225, 235, 251, 262, 281, 284, 287, 290, 307, 309, 313,

325, 335, 350, 352, 361, 364, 380, 387, 388, 402, 416, 441, 470, 474, 476, 478, 480, 492, 493, 495, 508, 521.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 212 be taken from the Secretary's desk and rereferred to the Committee on Finance.

Motion carried.

Senator Care moved that Senate Bill No. 385 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 General File and placed on the General File on the third agenda.

Motion carried.

Senator Lee requested that Amendment No. 267 be withdrawn from Senate Bill No. 179.

Senator Lee moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 11:56 a.m.

SENATE IN SESSION

At 12:01 p.m.
President Krolicki presiding.
Quorum present.

WAIVERS AND EXEMPTIONS
WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Horsford
For: Senate Joint Resolution No. 3 of the 74th Session.
To Waive:
Subsection 1 of Joint Standing Rule No. 14.3.
Subsection 2 of Joint Standing Rule No. 14.3.
Subsection 3 of Joint Standing Rule No. 14.3.
Subsection 4 of Joint Standing Rule No. 14.3.
Has been granted effective: Friday, April 17, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

A Waiver requested by Assemblywoman Buckley
For: Assembly Joint Resolution No. 1.
To Waive:
Subsection 1 of Joint Standing Rule No. 14.3.
Subsection 2 of Joint Standing Rule No. 14.3.
Subsection 3 of Joint Standing Rule No. 14.3.
Subsection 4 of Joint Standing Rule No. 14.3.
Has been granted effective: Friday, April 17, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 6.

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

Motion carried.

Assembly Bill No. 10.

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

Motion carried.

Assembly Bill No. 25.

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

Motion carried.

Assembly Bill No. 40.

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

Motion carried.

Assembly Bill No. 63.

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

Motion carried.

Assembly Bill No. 74.

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

Motion carried.

Assembly Bill No. 84.

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

Motion carried.

Assembly Bill No. 95.

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

Motion carried.

Assembly Bill No. 101.

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

Motion carried.

Assembly Bill No. 121.

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

Motion carried.

Assembly Bill No. 130.

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

Motion carried.

Assembly Bill No. 135.

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

Motion carried.

Assembly Bill No. 140.

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

Motion carried.

Assembly Bill No. 144.

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

Motion carried.

Assembly Bill No. 147.

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

Motion carried.

Assembly Bill No. 159.

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

Motion carried.

Assembly Bill No. 176.

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

Motion carried.

Assembly Bill No. 179.

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

Motion carried.

Assembly Bill No. 186.

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

Motion carried.

Assembly Bill No. 192.

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

Motion carried.

Assembly Bill No. 208.

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

Motion carried.

Assembly Bill No. 215.

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

Motion carried.

Assembly Bill No. 224.

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

Motion carried.

Assembly Bill No. 225.

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

Motion carried.

Assembly Bill No. 235.

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

Motion carried.

Assembly Bill No. 251.

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

Motion carried.

Assembly Bill No. 262.

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

Motion carried.

Assembly Bill No. 281.

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

Motion carried.

Assembly Bill No. 284.

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

Motion carried.

Assembly Bill No. 287.

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

Motion carried.

Assembly Bill No. 290.

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

Motion carried.

Assembly Bill No. 307.

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

Motion carried.

Assembly Bill No. 309.

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

Motion carried.

Assembly Bill No. 313.

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

Motion carried.

Assembly Bill No. 325.

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

Motion carried.

Assembly Bill No. 335.

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

Motion carried.

Assembly Bill No. 350.

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

Motion carried.

Assembly Bill No. 352.

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

Motion carried.

Assembly Bill No. 361.

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

Motion carried.

Assembly Bill No. 364.

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

Motion carried.

Assembly Bill No. 380.

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

Motion carried.

Assembly Bill No. 387.

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

Motion carried.

Assembly Bill No. 388.

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

Motion carried.

Assembly Bill No. 402.

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

Motion carried.

Assembly Bill No. 416.

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

Motion carried.

Assembly Bill No. 441.

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

Motion carried.

Assembly Bill No. 470.

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

Motion carried.

Assembly Bill No. 474.

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

Motion carried.

Assembly Bill No. 476.

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

Motion carried.

Assembly Bill No. 478.

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

Motion carried.

Assembly Bill No. 480.

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

Motion carried.

Assembly Bill No. 492.

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

Motion carried.

Assembly Bill No. 493.

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

Motion carried.

Assembly Bill No. 495.

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

Motion carried.

Assembly Bill No. 508.

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

Motion carried.

Assembly Bill No. 521.

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

Motion carried.

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

Senate in recess at 12:08 p.m.

SENATE IN SESSION

At 12:10 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 267.

Bill read second time and ordered to third reading.

Assembly Bill No. 109.

Bill read second time and ordered to third reading.

Assembly Bill No. 163.
Bill read second time and ordered to third reading.

Assembly Bill No. 407.
Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 128.
Bill read third time.
Roll call on Senate Bill No. 128:
YEAS—21.
NAYS—None.

Senate Bill No. 128 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 252.
Bill read third time.
Roll call on Senate Bill No. 252:
YEAS—21.
NAYS—None.

Senate Bill No. 252 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 269.
Bill read third time.
Roll call on Senate Bill No. 269:
YEAS—21.
NAYS—None.

Senate Bill No. 269 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 292.
Bill read third time.
Remarks by Senators Washington, Care, Amodei, Horsford, Cegavske and Townsend.
Senator Washington requested that the following remarks be entered in the Journal.

SENATOR WASHINGTON:

Thank you, Mr. President. I have a concern about Senate Bill No. 292. This is a Uniform Act, and I know my colleague from Clark County has worked on many uniform acts. They are complicated, and he does a good job, but this act has some provisions in it that has caused consternation with how they affect Clark County and Washoe County and the Division of Child and Family Services at the state level. Clark County has an unfunded mandate because of this act of over $10 million. There is concern about the unfunded mandate and the fiscal impact that would be placed upon Clark County. Washoe County will have a $2-million unfunded mandate

from this act over the biennium. For this reason, I ask that the body take a second look at this bill and consider the fiscal impact that will be placed on these two counties.

I have a concern for the rural counties overseen by the Division of Child and Family Services. They have an unfunded mandate of almost $1 million. This bill will impact them and their ability to offer services throughout the rural communities. I ask that the effect of the unfunded mandates on Child Protective Services and the Division of Child and Family Services be addressed.

SENATOR CARE:

I cannot dispute what the Senator has stated. This is a Uniform Act I was asked to submit for introduction. I received the bill on the last day that the bills could be introduced. I saw the unfunded mandate as it is listed on the bill but did not have a fiscal note as it applies to the State, but I have had discussions with both Clark County and Washoe County.

The bill has some laudable intentions. It requires retaining a child's attorney, a best-interest attorney or a child's advocate. The Uniform Act is a four-year process. A lot of thought was given to this. I have had those discussions with Washoe County and with Clark County. I have told the proponents of the bill, legal services who have an interest in this, if this goes to the Assembly and the fiscal impact is still there and is not addressed, it does so at its peril. I have not been able get the representatives from Clark County and Washoe County and the attorneys who would want to make use of this bill together. I still intend to do that. Unfortunately, this is the deadline, but I know what can happen to a bill with an unfunded mandate, especially, to this degree.

SENATOR AMODEI:

I would like to inquire if there was any discussion in the Health & Education Committee regarding the fiscal issues. Why is the bill not exempt, at least, for the rural areas so that the fiscal impact could be dealt with here as opposed to sending it to the Assembly? There is $1-million state fiscal impact.

I agree with the laudable intentions to have on the record that there is a $10-million impact in the largest county in the State and $1 million or $2 million in the next largest and $1 million for the rest of the State for the rural services. I would feel more comfortable if we were going to deal with those fiscal issues by referring the bill to the Senate Finance Committee since this is the House where the bill originated. The author of the bill is the one who is the most familiar with the bill's intentions.

Was there any discussion about the fiscal issues in the committee hearing and was there any indication why this is not being made exempt or rereferred to Finance because of the obvious fiscal issues present in the bill?

SENATOR HORSFORD:

I rise in support of the bill. I will take note of the potential fiscal impact; we have not received substantiated fiscal notes that indicate exactly what those notes are. As it relates to the state budget, we did not receive an exemption for this bill. Based on this being a model act under the uniform representation of children in abuse, neglect and custody, I would support the bill. I chaired the interim committee on the Placement of Children in Foster Care, and I believe the provisions that pertain to best-interest attorney for infants and children should continue as a policy discussion and allow those who indicate that there are impacts to local government to continue to state their case. The policy is what we are dealing with, today, because there is currently no exemption on this bill for it to be rereferred to Finance.

SENATOR CEGAVSKE:

Thank you, Mr. President. I asked about the fiscal note in committee. We were not told of any in the committee. I supported the piece of legislation in committee even though there was no mention of a fiscal note. There was nothing, even though we asked about it, and no one came forward about a fiscal note.

I sent a response to the Chair of the Committee on Health & Education stating I would not be able to support Senate Bill No. 292 because of my concerns about the fiscal notes. I was under the impression that this bill was going to Finance. I appreciate all the hard work

Senator Horsford had done on this bill. There are many wonderful things in this piece of legislation, but in good conscience, I have to look at the fiscal impact and with this tremendous amount, it is important that we get this information by the end of the day and do what is right. We should send this bill to the Senate Finance Committee and have it worked out before it is sent to the Assembly.

I do not like to hear that we have worked out parts of a bill and will let them fix it in the other House. That is not our job. Our job is to send out a good piece of legislation, knowing the facts and the information on whatever it is. It is our job to make certain that it is something every one of us is proud of, then, send it over to the Assembly. I cannot tell a county that they are going to have this cost. They are in the same situation the State is in. We do not have the extra money. We cannot assume that they do either.

I support what we have done, but I think we need to be responsible enough to send it to Senate Finance and have it looked at so that we do not lose it. We can talk to the Budget Division and ask for that information.

SENATOR TOWNSEND:

Thank you, Mr. President. The concerns brought before us, today, do have merit.

The front of the bill states there is an unfunded mandate in sections 10 and 12. The bigger issue is not the policy in question, which is important and has value for the children this bill attempts to help; it is the unique financial situation in which we find ourselves. The county I represent has approached me and says the impact is significant, nearly $1 million per year.

Ten million dollars for Clark County—first, in front of the counties are issues that have not yet been resolved—that is that the proposed budget by this Governor has 4 cents that will be taken from each county. This poses a significant impact to both counties. Second, in southern Nevada, there is a court case called the *Southern California Edison Case.* That represents a $40 million sales-tax loss for southern Nevada at a continuing rate of $250,000 a month lost in mounting interest. The State has a little less than 50 percent of that responsibility with local government, and the school district they have a little over 50 percent of that responsibility. In the north, we already have the finished court case where the property owners in Incline Village won their case at the Supreme Court and the county is obligated to a $12 million to $20 million pay-back on property taxes that according to the court were inappropriately assessed.

We have significant funding issues with regard to the two largest counties and what their obligations are. The policy debate has gone on well and is articulate. No one is going to argue with the policy, but I hope we can resolve the impact of the fiscal issue before it leaves this House, or I will not be able to support it. I worry about the counties and what we are asking them to do.

Roll call on Senate Bill No. 292:

YEAS—12.

NAYS—Amodei, Cegavske, Hardy, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington—9.

Senate Bill No. 292 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 301.

Bill read third time.

Conflict of interest declared by Senators Care and Schneider.

Remarks by Senators Coffin, Nolan and Lee.

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

SENATOR COFFIN:

I remember in my youth in Las Vegas, at a time when the Air Force still used propeller planes, we moved here in 1951, and as a youngster, I learned the name and configuration and could identify from any distance and any angle every Air Force plane in their inventory. I am proud of the Air Force and the residents of southern Nevada are, too.

For many years, I have been worried about encroaching growth that could harm the mission of Nellis Air Force Base. It is an important employer of civilians, and it has brought a wonderful breadth of experience to our State. Contrary to many Air Force installations where people serve and then return to their home states, many who serve at Nellis stay in southern Nevada. They do that because it is a wonderful place to live, and they would not have known it if they had not been stationed there.

During the past 20 years, Nellis and the Air Force have become concerned about encroaching growth, particularly residential, moving into the air space of the base. It is generally within the province of North Las Vegas, which has allowed uncontrolled growth. North Las Vegas, unfortunately, is the city that is allowing this growth to encroach on Nellis. It is the only city that has an effect on this base, though Las Vegas has some growth to the south and to the east. North Las Vegas has been the "bad boy" in southern Nevada when it comes to potentially harming the mission of Nellis Air Force Base. North Las Vegas annexed the land going all the way out to the Apex area, which is a long distance, about 10 miles, from Nellis. One would not think that an area that far away that is industrial would be a threat to the base.

The Air Force has become fed up with what has gone on in North Las Vegas and does not trust the city. They are worried about what is going to happen in the future. They have stuck their big foot into our affairs with this bill. Maybe it was Nellis' idea, maybe it was not, but the point is, it serves their purpose. It brings Nellis into a situation where they can control zoning on issues. I do not think that is right. It is an understandable reaction why the Air Force would want to be involved. It is the irresponsibility of officials in southern Nevada who have created this squeeze on this wonderful asset.

I reluctantly stand in opposition to what the Air Force would like to accomplish with this bill and say, "no, I do not think you can do this." I do not believe that they can, through their device, step on property interest in a haste to pass a bill that could help their interest and hurt the private property interest of the people in southern Nevada. I am sorry I have to take this position because I love the sound of freedom, but I do not believe that they should be allowed to step on the private property rights of the residents there.

Senator Schneider made an excellent case, yesterday, on Second Reading in opposition to this bill. I do not have the skills in real estate as some of you have, but this is a strong signal to the municipalities who control the land around the base that they had better stop moving closer or you will harm this wonderful asset. We do not want it to move out of our valley; we want it to stay. This bill is a way for them to send a signal to us that enough is enough. I cannot support it for the reasons I have stated.

SENATOR NOLAN:

Most of the comments made yesterday on this bill will suffice. I want to assure the body and the members of the lobbying community who represent interests on this bill, that the bill does not attempt to try to steer zoning issues on behalf of any municipal organization.

The initial language, which has been adopted in a number of states, is about notification to those people who would operate in the air space of both the Fallon Air Force Base and Nellis Air Force Base. I agree with my colleague from Clark District No. 11 that perhaps not everyone who may be affected by this bill was notified just as they are not for any other bills we may consider. I have spoken with the Assembly Chair of Government Affairs, and they will sit down with the dozens of interested parties in this and find some compromise language. I am convinced that language exists.

SENATOR LEE:

Thank you, Mr. President. I must take umbrage with the reference that North Las Vegas is the bad guy on this. This bill requires North Las Vegas to include the Military Activities Plan so that they know what is going on. It also discloses to potential purchasers of property that they are under a flight path and there is live ammo on those planes.

The good Senator is flawed in his discussion that land was annexed from the federal government. The federal government gave that property to the cities and the counties. If you feel like you do, then, I would join with you to write something to the federal government to tell them to quit giving this land away. Tax distributions are paid in this State based on growth. North Las Vegas continues to grow, continues to give services to the residents, and that real estate was given to us by the federal government. North Las Vegas is complying.

Roll call on Senate Bill No. 301:
YEAS—10.
NAYS—Breeden, Carlton, Coffin, Copening, Horsford, Mathews, Rhoads, Wiener, Woodhouse—9.
NOT VOTING—Care, Schneider—2.

Senate Bill No. 301 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 361.
Bill read third time.
Senator Lee disclosed he has an interest in employee-leasing companies.
Roll call on Senate Bill No. 361:
YEAS—21.
NAYS—None.

Senate Bill No. 361 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 363.
Bill read third time.
Roll call on Senate Bill No. 363:
YEAS—21.
NAYS—None.

Senate Bill No. 363 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 389.
Bill read third time.
Roll call on Senate Bill No. 389:
YEAS—21.
NAYS—None.

Senate Bill No. 389 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 1:15 p.m.
Motion carried.

Senate in recess at 12:43 p.m.

SENATE IN SESSION

At 2:09 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Health and Education, to which was referred Senate Bill No. 286, 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*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 210, 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. 202, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 283 be taken from the Second Reading File and placed on the bottom of the Second Reading File.

Motion carried.

Senator Care moved that the motion whereby Senate Bill No. 385 was referred to the Committee on Finance be rescinded.

Motion carried.

Senator Care moved that the bill be placed on General File on the third agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 119.

Bill read second time.

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

Amendment No. 221.

"SUMMARY—Revises provisions governing massage therapists. (BDR 54-162)"

"AN ACT relating to professions; revising provisions governing the regulation of massage therapists by the Board of Massage Therapists; prohibiting certain misleading and deceptive practices relating to massage therapy; revising provisions governing the discipline of massage therapists; authorizing the Board to issue administrative citations and to impose administrative fines for certain violations; revising provisions governing the temporary suspension of licenses of massage therapists; requiring law

enforcement agencies to provide certain records to the Board or its Executive Director upon request; *authorizing law enforcement agencies to redact certain confidential information from records provided to the Board or its Executive Director;* providing remedies and penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, massage therapists must be licensed by the Board of Massage Therapists. (Chapter 640C of NRS) Sections 2, 3 and 11 of this bill require a massage therapist to display his original license, not a copy or replica, at each location where he practices massage therapy. (NRS 640C.450) Section 3 prohibits a person from: (1) forging or counterfeiting a license; (2) altering, copying or replicating a license for the purpose of aiding or abetting an unlawful act; or (3) using or displaying a license that has been forged or counterfeited or has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act.

Sections 4 and 16 of this bill prohibit an unlicensed person from advertising as a massage therapist and prohibit a licensed person from using any false or misleading statements in advertising. (NRS 640C.910) Sections 4 and 16 also prohibit an unlicensed person from having his name listed in a telephone directory under a heading such as "massage" which indicates or implies that he is licensed or qualified to practice massage therapy. Sections 4 and 16 also authorize the Board to issue an order to cease and desist from engaging in unlawful advertising. Sections 4, 18 and 19 of this bill contain provisions whereby the Board can have telephone numbers for any type of telephone, messaging or paging service disconnected because they are included in unlawful advertising. (NRS 703.175, 707.355)

Existing law authorizes the Board to take disciplinary action by imposing administrative fines. (NRS 640C.710) Section 14 of this bill provides that the Board may impose an administrative fine of not more than ~~[$10,000]~~ *$5,000* for each violation, unless a greater fine is required pursuant to section 5 of this bill. Section 5 requires the Board to impose, based on the number of violations, increasing administrative fines of not more than $50,000 against a licensee who has engaged in or solicited sexual activity during a massage therapy session or has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during a massage therapy session.

Section 7 of this bill authorizes the Board to issue administrative citations for any statutory or regulatory violations relating to massage therapy and provides that an unlicensed person who fails to comply with a citation is guilty of a misdemeanor. A citation may include an order to: (1) pay an administrative fine; (2) correct a condition resulting from a violation; and (3) reimburse the Board for expenses incurred to investigate the violation. Section 8 of this bill allows a person to request a hearing before the Board to contest an administrative citation.

Existing law provides for the temporary suspension of a massage therapy license without a prior hearing for a period of 15 or 30 days under certain exigent circumstances. (NRS 640C.720) Generally, procedural due process entitles a licensee to a hearing before his license is suspended. (*Barry v. Barchi*, 443 U.S. 55, 99 S. Ct. 2642 (1979); U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8) However, when exigent circumstances justify immediate action, a statute may provide for the temporary suspension of a license without a prior hearing if the statute requires a post-suspension administrative review where a hearing is held and a final decision is rendered as promptly as is practicable. (*Federal Deposit Insurance Corporation v. Mallen*, 486 U.S. 230, 108 S. Ct. 1780 (1988); *Sierra Life Insurance Company v. Rottman*, 95 Nev. 654 (1979)) Section 15 of this bill: (1) provides for the temporary suspension of a massage therapy license without a prior hearing for a period not to exceed 60 days under certain exigent circumstances; (2) authorizes the licensee to request a post-suspension administrative review; and (3) requires the Board to hold a hearing and render a final decision as promptly as is practicable but not later than 60 days after the date of the initial suspension. (NRS 640C.720)

Section 15 of this bill also authorizes the Board and its Executive Director to request from state and local law enforcement agencies ~~[all]~~ records relating to any charge or citation against a massage therapist for a crime involving violence, prostitution or any other sexual offense ~~[.]~~ *and authorizes those law enforcement agencies to redact from those records certain information which the agencies deem confidential.* (NRS 640C.720) Sections 15 and 17 of this bill require a law enforcement agency to provide the requested records as soon as reasonably practicable. (NRS 179A.100) Section 15 also provides that the Board and its Executive Director: (1) must maintain the confidentiality of the records; and (2) may use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist.

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

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *1. "Original license" means the actual license which is issued to the licensee by the Board and which is current and valid.*

2. The term does not include any photocopy print, photostat or other replica of such a license.

Sec. 3. *1. A person shall not:*

(a) Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy; or

(b) For the purpose of aiding or abetting an unlawful act:

(1) Alter or attempt to alter a license to practice massage therapy; or

(2) Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy.

2. A person shall not use or display a license to practice massage therapy that:

(a) Is not the original license issued to the person;

(b) Has been counterfeited or forged;

(c) Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or

(d) Has been issued to another person.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 4. *1. A person shall not advertise as a massage therapist in this State unless the person is licensed to practice massage therapy pursuant to this chapter.*

2. A person licensed to practice massage therapy pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the massage therapist.

3. All advertising by a licensed massage therapist must include his name, the name of his company, if applicable, and the number of his license.

4. A person who violates any provision of subsection 1, 2 or 3 is guilty of a misdemeanor.

5. If, after notice and a hearing as required by law, the Board determines that a person has engaged in advertising in a manner that violates the provisions of this section or NRS 640C.910, the Board may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, order the person to cease and desist the unlawful advertising and order the person to cause any telephone number included in the advertising to be disconnected from service.

6. If the Board orders the person to cause any telephone number to be disconnected from service and the person fails to comply within 5 days after the date on which he is served with the order, the Board may:

(a) If the provider is regulated by the Public Utilities Commission of Nevada, request the Commission to order the provider to disconnect the telephone number from service pursuant to NRS 703.175 and 707.355; or

(b) If the provider is not regulated by the Public Utilities Commission of Nevada, request the provider to disconnect the telephone number from service and inform the provider that the request is made pursuant to this section. Upon receiving such a request, the provider shall take such action as is necessary to disconnect the telephone number from service.

7. A provider shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to this section; or

(b) Provide or offer to provide a message that includes a new telephone number for the person whose telephone number was disconnected from service pursuant to this section.

8. If a provider complies in good faith with a request to disconnect a telephone number from service pursuant to this section, such good-faith compliance shall constitute a complete defense to any civil or criminal action brought against the provider arising from the disconnection or termination of service.

9. As used in this section:

(a) "Advertising" includes, without limitation, the issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "massage therapist" or "massage" with or without any limiting qualifications.

(b) "Provider" means a provider of any type of telephone, messaging or paging service.

(c) "Provider of messaging or paging service" means an entity that provides any type of messaging or paging service to any type of communication device.

(d) "Provider of telephone service" has the meaning ascribed to it in NRS 707.355.

(e) "Telephone number" means any sequence of numbers or characters, or both, used by a provider to provide any type of telephone, messaging or paging service.

Sec. 5. *1. In addition to any other actions authorized by NRS 640C.710, if the Board finds that a licensee has engaged in or solicited sexual activity during the course of practicing massage on a person or has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during the course of practicing massage on a person, the Board shall:*

(a) For a first violation, impose an administrative fine of not less than $1,000 and not more than $50,000;

(b) For a second violation, impose an administrative fine of not less than $5,000 and not more than $50,000; and

(c) For a third violation and for each additional violation, impose an administrative fine of not less than $10,000 and not more than $50,000.

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

(a) The gravity of the violation;

(b) The good faith of the licensee; and

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

Sec. 6. *The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.*

Sec. 7. *1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has committed an act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person. A citation issued pursuant to this section may include, without limitation:*

(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine for each violation; and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate each violation.

2. If the citation includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must:

(a) State the time permitted for compliance, which must not be less than 15 business days after the date on which the citation is issued to the person; and

(b) Describe, in specific detail, the action required to be taken.

3. If the citation is issued to a licensee and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine must not exceed the maximum amount authorized by NRS 640C.710 or section 5 of this act, as appropriate for each violation.

4. If the citation is issued to an unlicensed person and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine:

(a) For a first violation, must not be less than ~~[$1,000]~~ $100 and must not be more than ~~[$50,000;]~~ $1,000;

(b) For a second violation, must not be less than ~~[$5,000]~~ $250 and must not be more than ~~[$50,000;]~~ $5,000; and

(c) For a third violation and for each additional violation, must not be less than ~~[$10,000]~~ $500 and must not be more than ~~[$50,000.]~~ $10,000.

5. The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

6. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 8. *1. If a person is issued a written administrative citation pursuant to section 7 of this act, the person may request a hearing before the Board to contest the citation by filing a written request with the Board:*

(a) Not later than 15 business days after the date on which the citation is issued to the person; or

(b) If the Board, for good cause shown, extends the time allowed to file a written request for a hearing to contest the citation, on or before the later date specified by the Board.

2. If the person files a written request for a hearing to contest the citation within the time allowed pursuant to this section:

(a) The Board shall provide notice of and conduct the hearing in the same manner as other disciplinary proceedings; and

(b) At the hearing, the person may contest, without limitation:

(1) The facts forming the basis for the determination that the person has committed an act which constitutes a violation of this chapter or the regulations of the Board;

(2) The time allowed to take any corrective action ordered;

(3) The amount of any administrative fine ordered;

(4) The amount of any order to reimburse the Board for the expenses incurred to investigate the violation; and

(5) Whether any corrective action described in the citation is reasonable.

3. If the person does not file a written request for a hearing to contest the citation within the time allowed pursuant to this section, the citation shall be deemed a final order of the Board and not subject to review by any court or agency.

4. For the purposes of this section, a citation shall be deemed to have been issued to a person on:

(a) The date on which the citation is personally delivered to the person; or

(b) If the citation is mailed, the date on which the citation is mailed by certified mail to the last known business or residential address of the person.

Sec. 9. NRS 640C.020 is hereby amended to read as follows:

640C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 640C.030 to 640C.060, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 10. NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; ~~[and]~~

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant ~~[.]~~ *; and*

7. Prescribe the form of a written administrative citation pursuant to section 7 of this act.

Sec. 11. NRS 640C.450 is hereby amended to read as follows:

640C.450 *1.* Each licensee shall display his *original* license in a conspicuous manner at each location where he practices massage therapy. *If a licensee practices massage therapy in more than one place, he must carry his original license with him and display it wherever he is actually working.*

2. A licensee shall obtain a replacement of his original license from the Board if his:

(a) Original license is destroyed, misplaced or mutilated; or

(b) Name or address as printed on the original license has changed.

3. To obtain a replacement license, the licensee must:

(a) File an affidavit with the Board, on the form prescribed by the Board, which states that his original license was destroyed, misplaced or mutilated or that his name or address as printed on the original license has changed; and

(b) Pay the fee prescribed by the Board pursuant to NRS 640C.520.

Sec. 12. NRS 640C.520 is hereby amended to read as follows:

640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter	$600
An application for a license	300
An application for a license without an examination	300
A background check of an applicant	600
The issuance of a license	400
The renewal of a license	200
The restoration of an expired license	500
The reinstatement of a suspended or revoked license	500
The issuance of a ~~[duplicate]~~ *replacement* license	75
The restoration of an inactive license	300

2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 13. NRS 640C.700 is hereby amended to read as follows:

640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude within the immediately preceding 10 years *;* ~~[.]~~

4. Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

(a) Made sexual advances toward the person;

(b) Requested sexual favors from the person; or

(c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in his practice of massage therapy;

7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy;

8. Has failed to provide information requested by the Board within 60 days after he received the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy;

10. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

11. Has solicited or received compensation for services relating to the practice of massage therapy that he did not provide;

12. If the holder of the license is on probation, has violated the terms of his probation; ~~[or]~~

13. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he has received training in a specialty technique of massage for which he has not received training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist ~~[.]~~ *;*

14. Has failed to comply with a written administrative citation issued pursuant to section 7 of this act within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to section 8 of this act, within 15 business days after the hearing; or

15. Except as otherwise provided in subsection 14, has failed to pay an administrative fine imposed pursuant to this chapter within 30 days after:

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

➥ *whichever occurs later.*

Sec. 14. NRS 640C.710 is hereby amended to read as follows:

640C.710 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

(a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or holder of the license a public reprimand;

(c) Refuse to issue, renew, reinstate or restore the license;

(d) Suspend or revoke the license;

(e) ~~[Impose]~~ *Except as otherwise provided in section 5 of this act, impose* an administrative fine of not more than ~~[$1,000 per day for each day for which the Board determines that a violation occurred;]~~ *~~[$10,000]~~* *$5,000 for each violation;*

(f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or

(g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 15. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds *, based upon evidence in its possession,* that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice *by certified mail* to the massage therapist, temporarily suspend his license *without a prior hearing* for a period not to exceed ~~[30 days. For good cause,]~~ *60 days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 20 days after the date on which the Board mails notice of the temporary suspension. If the massage therapist:*

(a) Files a timely written request for a hearing, the Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 60 days after the

date on which the Board mails notice of the temporary suspension. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ *finds, for good cause shown, that* such action ~~[to be]~~ *is* necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension *as promptly as is practicable but* not later than ~~[30]~~ *60* days after the date on which the Board ~~[notifies the massage therapist]~~ *mails notice* of the *initial* temporary suspension. *After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.*

2. If a massage therapist is charged with or cited for a crime involving violence, prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director ~~[.]~~ *of the Board.* Upon receiving such a report, the Executive Director shall immediately issue *by certified mail to the massage therapist* a cease and desist order temporarily suspending the license of the massage therapist ~~[.]~~ *without a prior hearing.* The temporary suspension of the license is effective immediately upon issuance of the cease and desist order and must not exceed ~~[15 days. For good cause,]~~ *60 days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 20 days after the date on which the Executive Director mails the cease and desist order. If the massage therapist:*

(a) Files a timely written request for a hearing, the Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 60 days after the date on which the Executive Director mails the cease and desist order. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ *finds, for good cause shown, that* such action ~~[to be]~~ *is* necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension *as promptly as is practicable but* not later than ~~[15]~~ *60* days after the date on which the Executive Director ~~[issues]~~ *mails* the

cease and desist order. *After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.*

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order.

4. When conducting an investigation of a massage therapist pursuant to this chapter, the Board or the Executive Director may request from state and local law enforcement agencies ~~[all]~~ records relating to any charge or citation against the massage therapist for a crime involving violence, prostitution or any other sexual offense. Such records include, without limitation, ~~[any]~~ a record of criminal history as defined in NRS 179A.070.

5. Upon receiving a request from the Board or the Executive Director pursuant to subsection 4, the law enforcement agency shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The law enforcement agency may redact from the records produced pursuant to this subsection any descriptions of techniques and strategies and other information relating to law enforcement that are deemed confidential by the agency. Upon receiving the records from the law enforcement agency, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist pursuant to this chapter.

Sec. 16. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ *; or*

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ *; or*

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 17. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written

consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 18. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request *to disconnect a telephone number* from the State Contractors' Board ~~[to disconnect a telephone number]~~ pursuant to NRS 624.720, *the Board of Massage Therapists pursuant to*

section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758, the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 19. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855; or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS ~~[624.720 and]~~ 703.175, *after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,*

➥ take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, "provider of telephone service" includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

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 authorizes law enforcement agencies to redact certain confidential information from records provided to the Board of Massage Therapy and is basically to protect the officer.

The amendment also reduces the amount of certain fines issued for prohibited acts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 157.

Bill read second time.

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

Amendment No. 446.

"SUMMARY—~~[Limits the amount that certain hospitals and physicians may charge]~~ *Establishes provisions governing payment* for the provision of certain services and care ~~[.]~~ *and reports relating to those services and care.* (BDR 40-808)"

"AN ACT relating to health care; ~~[limiting the amount that]~~ *requiring* certain hospitals and physicians ~~[may charge]~~ *to accept certain rates as payment in full* for the provision of certain services and care to certain patients; *providing an exception under certain circumstances; authorizing the submission of certain reports relating to policies of health insurance and similar contractual agreements; requiring physicians and hospitals to submit certain information relating to the charges for certain medical services and care; requiring the Department of Health and Human Services to prescribe a usual and customary rate for certain medical services and care under certain circumstances; revising provisions relating to the Director of the Office for Consumer Health Assistance; making an appropriation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a hospital is required to provide emergency services and care and to admit certain patients where appropriate, regardless of the financial status of the patient. (NRS 439B.410) Existing law also requires certain major hospitals to reduce total billed charges by at least 30 percent for hospital services provided to certain patients who have no insurance or other contractual provision for the payment of the charges by a third party. (NRS 439B.260) ~~[This]~~ *Section 12 of this* bill ~~[prohibits]~~ *requires* a hospital with 100 or more beds that is not operated by a federal, state or local governmental entity ~~[from charging a rate of more than 200 percent of the amount Medicare pays]~~ *under certain circumstances to accept as payment in full the usual and customary rate prescribed by the Department of Health and Human Services* for the provision of emergency services and care and any other services and care before a patient may be transferred safely to another hospital if the patient has insurance or another contractual agreement for the payment of such services and care at a hospital in this State other than the hospital to which the patient was transported by an emergency vehicle. ~~[This bill places the same limit on charges by physicians]~~

Section 13 of this bill requires an out-of-network physician providing such services and care in *out-of-network* hospitals with 100 or more beds ~~[.]~~ *under certain circumstances to accept as payment in full a rate of not more than 200 percent of the amount Medicare pays for the provision of emergency services and care.*

Section 14 of this bill requires an out-of-network physician providing any medical services and care in an in-network hospital under certain circumstances to accept as payment in full a rate of not more than 200 percent of the amount Medicare pays for the provision of that service or care.

Section 15 of this bill authorizes providers of insurance and other contractual agreements for the provision of health care to submit certain reports to the Department of Health and Human Services and the Legislative Committee on Health Care. If such a provider does not submit the reports, the hospital or physician, as applicable, is not required to accept the specified rate set forth in sections 12, 13 or 14.

Section 17 of this bill requires the Department to analyze the lists of billed charges which a physician is required to submit pursuant to section 16 of this bill and the charge masters submitted by hospitals pursuant to section 18 of this bill and determine the usual and customary charges for certain medical services and care provided in hospitals in this State.

Existing law creates the Office for Consumer Health Assistance within the Office of the Governor and prescribes the duties of the Director of the Office for Consumer Health Assistance. (NRS 223.500-223.580) Section 19 of this bill requires the Director to track and report certain information relating to complaints filed pertaining to the charges of medical services and care and the resolutions of those complaints. Section 20 of this bill appropriates $150,000 to the Office for Consumer Health Assistance.

Section 21 of this bill provides that the provisions of this bill expire by limitation on June 30, 2011.

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

Section 1. Chapter 439B of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 2 to 17, inclusive, of this act.*

Sec. 2. As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Air ambulance" has the meaning ascribed to it in NRS 450B.030.

Sec. 4. "Ambulance" has the meaning ascribed to it in NRS 450B.040.

Sec. 5. "Emergency services and care" has the meaning ascribed to it in NRS 439B.410.

Sec. 6. "Fire-fighting agency" has the meaning ascribed to it in NRS 450B.072.

Sec. 7. "In-network hospital" means, for a particular patient, a hospital which has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.

Sec. 8. *"In-network physician" means, for a particular patient, a physician who has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 9. *"Out-of-network hospital" means, for a particular patient, a hospital which has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 10. *"Out-of-network physician" means, for a particular patient, a physician who has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 11. *"Third party" includes, without limitation:*

1. An insurer, as that term is defined in NRS 679B.540;

2. A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for emergency services and care at a hospital;

3. A participating public agency, as that term is defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; and

4. Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.

Sec. 12. 1. ~~*[A]*~~ *Except as otherwise provided in subsection 3, an out-of-network hospital with 100 or more beds that is not operated by a federal, state or local governmental agency shall* ~~*[charge]*~~ *accept as payment in full for the provision of services and care to a patient a rate which is in accordance with subsection 2 if the patient:*

(a) Was transported to the hospital for the provision of emergency services and care by an ambulance, air ambulance or vehicle of a fire-fighting agency which has received a permit to operate pursuant to chapter 450B of NRS; and

(b) Has a policy of insurance or other contractual agreement with a third party that provides coverage for emergency services and care provided by at least one hospital in this State other than the hospital to which the patient was transported.

2. ~~*[A]*~~ *Except as otherwise provided in subsection 3, an out-of-network hospital with 100 or more beds which is not operated by a federal, state or local governmental agency that provides to a patient described in subsection 1:*

(a) Emergency services and care; and

(b) Any other services and care before the patient may be transferred safely to another hospital pursuant to NRS 439B.410,

➥ shall ~~[not charge]~~ accept as payment in full for such services and care a rate which is ~~[greater than 200 percent of the amount Medicare would pay for the specific service and care.]~~ equal to the usual and customary charge prescribed for that service and care by the Department pursuant to section 17 of this act. The amount accepted must include any deductible, copayment or coinsurance paid by the patient.

3. ~~[A physician on the medical staff of a hospital with 100 or more beds shall charge for the provision of services and care to a patient in accordance with subsection 4 if the patient:~~

~~(a) Was transported to the hospital for the provision of emergency services and care by an ambulance, air ambulance or vehicle of a fire-fighting agency which has received a permit to operate pursuant to chapter 450B of NRS; and~~

~~(b) Has a policy of insurance or other contractual agreement with a third party that provides coverage for the provision of health care by at least one physician in this State other than the physician who provided the services and care at the hospital to which the patient was transported.~~

~~4. A physician on the medical staff of a hospital with 100 or more beds who provides to a patient described in subsection 3:~~

~~(a) Emergency services and care; and~~

~~(b) Any other services and care before the patient may be transferred safely to another hospital pursuant to NRS 439B.410,~~

~~➥ shall not charge for such services and care a rate which is greater than 200 percent of the amount Medicare would pay for the specific service and care.~~

~~5. As used in this section:~~

~~(a) "Air ambulance" has the meaning ascribed to it in NRS 450B.030.~~

~~(b) "Ambulance" has the meaning ascribed to it in NRS 450B.040.~~

~~(c) "Emergency services and care" has the meaning ascribed to it in NRS 439B.410.~~

~~(d) "Fire-fighting agency" has the meaning ascribed to it in NRS 450B.072.~~

~~(e) "Third party" includes, without limitation:~~

~~(1) An insurer, as that term is defined in NRS 679B.540;~~

~~(2) A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for emergency services and care at a hospital;~~

~~(3) A participating public agency, as that term is defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; and~~

~~*(4) Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.]*~~ *An out-of-network hospital is not required to accept as payment in full the amount specified pursuant to subsection 2 if:*

(a) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted reports pursuant to section 15 of this act;

(b) The third party which provides coverage to the patient has not, in good faith, negotiated with the hospital to resolve the difference between the amount charged by the hospital and the amount paid by the third party and has not documented the occurrence and outcome of any negotiations; or

(c) The patient has not paid the deductible, copayment or coinsurance that the patient would have paid for the provision of health care at an in-network hospital.

Sec. 13. 1. Except as otherwise provided in this section, an out-of-network physician on the medical staff of an out-of-network hospital with 100 or more beds shall accept as payment in full for the provision of services and care to a patient a rate in accordance with subsection 2 if the patient:

(a) Was transported to the hospital for the provision of emergency services and care by an ambulance, air ambulance or vehicle of a fire-fighting agency which has received a permit to operate pursuant to chapter 450B of NRS; and

(b) Has a policy of insurance or other contractual agreement with a third party that provides coverage for the provision of health care by at least one physician in this State who provides the type of services and care other than the physician who provided the services and care at the hospital to which the patient was transported.

2. Except as otherwise provided in subsection 3, an out-of-network physician on the medical staff of an out-of-network hospital with 100 or more beds who provides to a patient described in subsection 1:

(a) Emergency services and care; and

(b) Any other services and care before the patient may be transferred safely to another hospital pursuant to NRS 439B.410,

➥ *shall accept as payment in full for such services and care a rate which is not greater than 200 percent of the amount Medicare would pay for the specific service and care. The amount accepted must include any deductible, copayment or coinsurance paid by the patient.*

3. An out-of-network physician is not required to accept as payment in full the amount specified pursuant to subsection 2 if:

(a) The third party that issued the policy of insurance or other contractual agreement which provides coverage for the patient has not submitted reports pursuant to section 15 of this act;

(b) The third party has not, in good faith, negotiated with the physician to resolve the difference between the amount charged by the physician and the

amount paid by the third party and has not documented the occurrence and outcome of any negotiations; or

(c) The patient has not paid the deductible, copayment or coinsurance that the patient would have paid for the provision of health care to an in-network physician.

Sec. 14. 1. Except as otherwise provided in this section, an out-of-network physician on the medical staff of an in-network hospital with 100 or more beds shall accept as payment in full for the provision of any services and care to a patient a rate in accordance with subsection 2 if the patient has a policy of insurance or other contractual agreement with a third party that provides coverage for the provision of health care by at least one physician in this State who provides the type of services and care other than the physician who provided the services and care.

2. Except as otherwise provided in subsection 3, an out-of-network physician on the medical staff of an in-network hospital with 100 or more beds who provides to a patient described in subsection 1 any services and care shall accept as payment in full for such services and care a rate which is not greater than 200 percent of the amount Medicare would pay for the specific service and care. The amount accepted must include any deductible, copayment or coinsurance paid by the patient.

3. An out-of-network physician is not required to accept as payment in full the amount specified pursuant to subsection 2 if:

(a) The third party that issued the policy of insurance or other contractual agreement has not submitted reports pursuant to section 15 of this act;

(b) The third party has not, in good faith, negotiated with the physician to resolve the difference between the amount charged by the physician and the amount paid by the third party and has not documented the occurrence and outcome of any negotiations; or

(c) The patient has not paid the deductible, copayment or coinsurance that the patient would have paid for the provision of health care to an in-network physician.

Sec. 15. Each third party who issues a policy of insurance or other contractual agreement that provides coverage for health care in this State may:

1. Review the in-network hospitals and in-network physicians of the third party to determine whether a person who is covered by that policy of insurance or other contractual agreement that provides coverage for health care has adequate access to health care, including, without limitation:

(a) A review of the number and types of in-network hospitals and in-network physicians, including, without limitation, emergency room physicians, anesthesiologists and specialty physicians;

(b) Whether a person who is covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care has access to in-network hospitals and in-network physicians without experiencing an unreasonable delay in the provision of health care;

(c) Whether the third party has contracted with a sufficient number of providers of health care to ensure access to emergency services and care; and

(d) A review of the in-network hospitals which provide emergency services and care and the number and type of in-network physicians on the medical staff of those in-network hospitals to ensure that the third party has contracted with a sufficient number and type of physicians who are on the medical staff of those in-network hospitals.

2. Review the frequency with which persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care are treated for emergency services and care by out-of-network physicians at in-network hospitals and the rate at which those services and care are reimbursed by the third party.

3. Ensure that persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care receive adequate information regarding in-network hospitals and in-network physicians and the financial impact of receiving medical services and care from out-of-network hospitals and out-of-network physicians, including, without limitation, the financial impact of receiving services and care from an out-of-network physician on the medical staff of an in-network hospital.

4. Submit once each calendar quarter to the Department and the Legislative Committee on Health Care a summary of the reviews conducted pursuant to subsections 1 and 2 and the educational efforts undertaken pursuant to subsection 3.

Sec. 16. Each physician who provides services and care in a hospital in this State shall submit a complete and current list of all billed charges of the physician for those services performed in a hospital to the Department in an electronic format prescribed by the Department. The Department shall use the electronic copy of the list of billed charges to review and analyze the data contained in the list and, except as otherwise provided in section 17 of this act, shall not release or publish the information contained in the list.

Sec. 17. 1. The Department shall annually review and analyze the data contained in the lists of billed charges submitted pursuant to section 16 of this act and the charge masters submitted pursuant to subsection 4 of NRS 449.490 and determine the usual and customary charges for each specific type of service and care provided in hospitals in this State. The usual and customary charges may be different for each region of the State if the Department determines such differences are necessary to accurately reflect the usual and customary rates in those regions.

2. The Department shall publish a list of each third party that submits the summaries pursuant to section 15 of this act.

3. The Department may adopt regulations to carry out the provisions of sections 2 to 17, inclusive, of this act.

Sec. 18. NRS 449.490 is hereby amended to read as follows:

449.490 1. Every institution which is subject to the provisions of NRS 449.450 to 449.530, inclusive, shall file with the Department the following financial statements or reports in a form and at intervals specified by the Director but at least annually:

(a) A balance sheet detailing the assets, liabilities and net worth of the institution for its fiscal year; and

(b) A statement of income and expenses for the fiscal year.

2. Each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually, a capital improvement report which includes, without limitation, any major service line that the hospital has added or is in the process of adding since the previous report was filed, any major expansion of the existing facilities of the hospital that has been completed or is in the process of being completed since the previous report was filed, and any major piece of equipment that the hospital has acquired or is in the process of acquiring since the previous report was filed.

3. In addition to the information required to be filed pursuant to subsections 1 and 2, each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually:

(a) The corporate home office allocation methodology of the hospital, if any.

(b) The expenses that the hospital has incurred for providing community benefits and the in-kind services that the hospital has provided to the community in which it is located. For the purposes of this paragraph, "community benefits" includes, without limitation, goods, services and resources provided by a hospital to a community to address the specific needs and concerns of that community, services provided by a hospital to the uninsured and underserved persons in that community, training programs for employees in a community and health care services provided in areas of a community that have a critical shortage of such services, for which the hospital does not receive full reimbursement.

(c) A statement of its policies and procedures for providing discounted services to, or reducing charges for services provided to, persons without health insurance that are in addition to any reduction or discount required to be provided pursuant to NRS 439B.260.

(d) A statement of its policies regarding patients' account receivables, including, without limitation, the manner in which a hospital collects or makes payment arrangements for patients' account receivables, the factors that initiate collections and the method by which unpaid account receivables are collected.

4. A complete current charge master must be available at each hospital during normal business hours for review by the Director, any payor that has a contract with the hospital to pay for services provided by the hospital, any payor that has received a bill from the hospital and any state agency that is

authorized to review such information. The *hospital shall submit the* complete and current charge master ~~[must be made available]~~ to the Department ~~[, at the request of the Director,]~~ in an electronic format specified by the Department. The Department ~~[may]~~ *shall* use the electronic copy of the charge master to review and analyze the data contained in the charge master and, except as otherwise provided in NRS 439A.200 to 439A.290, inclusive, *and section 17 of this act,* shall not release or publish the information contained in the charge master.

5. The Director shall require the certification of specified financial reports by an independent certified public accountant and may require attestations from responsible officers of the institution that the reports are, to the best of their knowledge and belief, accurate and complete to the extent that the certifications and attestations are not required by federal law.

6. The Director shall require the filing of all reports by specified dates, and may adopt regulations which assess penalties for failure to file as required, but he shall not require the submission of a final annual report sooner than 6 months after the close of the fiscal year, and may grant extensions to institutions which can show that the required information is not available on the required reporting date.

7. All reports, except privileged medical information, filed under any provisions of NRS 449.450 to 449.530, inclusive, are open to public inspection and must be available for examination at the office of the Department during regular business hours.

Sec. 19. *NRS 223.560 is hereby amended to read as follows:*

223.560 The Director shall:

1. Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

2. Assist consumers and injured employees in understanding their rights and responsibilities under health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

3. Identify and investigate complaints of consumers and injured employees regarding their health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

(a) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(b) Providing counseling and assistance to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services; ~~[and]~~

9. Establish and maintain an Internet website which includes:

(a) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328;

(b) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; and

(c) A link to the website established and maintained pursuant to NRS 439A.270 which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State ~~[.]~~ *;*

10. Track the complaints and inquiries from persons who received medical services and care that was not covered by a health care plan, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance in this State, which must include, without limitation:

(a) The total number of such complaints that were filed with the Office for Consumer Health Assistance;

(b) A list of each physician, health care plan and hospital against which a complaint is filed;

(c) The concessions made by each physician, health care plan and hospital in reaching a resolution to the complaint; and

(d) The percentage of complaints that are resolved by negotiating discounts from the amount initially charged by the physician or hospital, the percentage of complaints that are resolved by negotiating an increase in the amount initially paid by the health care plan and the percentage of complaints that are resolved by negotiating both a discount and an increase; and

11. Each quarter, submit to the Legislative Committee on Health Care a report concerning the complaints filed by consumers against physicians, health care plans and hospitals in this State and any other information required by the Committee.

Sec. 20. *1. There is hereby appropriated from the State General Fund to the Office for Consumer Health Assistance the sum of $150,000 for support of the Office and personnel necessary to carry out the provisions of NRS 223.560, as amended by section 19 of this act.*

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, 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 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

~~[Sec. 2.]~~ *Sec. 21.* This act becomes effective on July 1, 2009 ~~[.]~~ *, and expires by limitation on June 30, 2011.*

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Thank you, Mr. President. The amendment does three primary things. First, it creates a data collections effort to evaluate the frequency of the problem of patients being seen primarily by out-of-network medical providers. Secondly, it establishes and provides for an out-of-network medical care discount program. Finally, it adds that it sunsets the measure on June 30, 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Wiener moved that Senate Bill No. 157 be rereferred to the Committee on Finance return from reprint.

Motion carried.

Senate Bill No. 288.

Bill read second time.

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

Amendment No. 527.

"SUMMARY—Revises provisions relating to occupational safety and health. (BDR 53-163)"

"AN ACT relating to occupational safety; revising provisions relating to occupational safety and health; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 12.5 of this bill requires the Division of Industrial Relations of the Department of Business and Industry to offer to discuss specified information with the immediate families of certain victims of fatal accidents.

Section 47 of this bill revises provisions relating to citations issued by the Division of Industrial Relations to provide that if an employer notifies the Division that the employer wishes to contest a citation after a fatal accident, the Division is required to provide the Occupational Safety and Health

Review Board with information to contact the immediate family of each deceased employee. (NRS 618.475)

Section 57 of this bill revises provisions relating to formal fact-finding hearings held by the Occupational Safety and Health Review Board after a fatal accident to require the Board to notify the immediate family of each deceased employee of certain procedural information. (NRS 618.605)

~~[Sections 6, 13-41, 44-78 and 81-103 of this bill remove the Occupational Safety and Health Review Board from the Division of Industrial Relations of the Department of Business and Industry and make the Board responsible for the enforcement of occupational safety and health laws and regulations.~~

~~Sections 7-12 of this bill require employees and contractors to complete occupational safety and health training. Section 105 of this bill requires a contractor to submit proof of completion of occupational safety and health training before the State Contractors' Board renews his contractors' license.~~

~~Sections 42 and 43 of this bill expand the class of persons who may request an investigation by the Occupational Safety and Health Review Board or may notify the Board of a suspected violation of provisions relating to occupational safety and health.~~

~~Section 56 of this bill revises provisions relating to review hearings to require every such hearing to be open to the public.~~

~~Sections 79 and 80 of this bill require general contractors and specialty contractors to have a safety plan approved by the Occupational Safety and Health Review Board and submit information relating to loss experience to be granted preference in bidding on public works.~~

~~Section 104 of this bill requires an owner to implement an approved safety plan and assign a person to be in charge of worksite safety for construction projects for which the owner intends to establish and implement an owner-controlled insurance program.]~~

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

Section 1. ~~[Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.]~~ *(Deleted by amendment.)*

Sec. 2. ~~*["Advisory Council" means the Advisory Council of the Division of Industrial Relations, created pursuant to the provisions of NRS 232.570.]*~~ *(Deleted by amendment.)*

Sec. 3. ~~*["Construction site" means any location at which construction work is being commenced or is in progress.]*~~ *(Deleted by amendment.)*

Sec. 4. ~~*["OSHA 10" means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.]*~~ *(Deleted by amendment.)*

Sec. 5. ~~*["OSHA 30" means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by the*~~

~~*Occupational Safety and Health Administration of the United States Department of Labor.]*~~ *(Deleted by amendment.)*

Sec. 6. ~~*[1. The Board may:*~~

~~*(a) Appoint one or more legal counsel to provide services for the Board. If appointed, they are in the unclassified service of the State.*~~

~~*(b) Provide for contract services to be rendered by such other legal counsel as are needed for assistance in administering the laws relating to occupational safety and health.*~~

~~*2. Each of the legal counsel must be an attorney admitted to practice law in Nevada.*~~

~~*3. In the prosecution of all claims and actions referred to him, a legal counsel has the same power as that vested in the district attorneys of the several counties to:*~~

~~*(a) Enforce the laws relating to occupational safety and health; and*~~

~~*(b) Prosecute for criminal violations of such laws.]*~~ *(Deleted by amendment.)*

Sec. 7. ~~*[The Division may adopt such regulations as are necessary to carry out the provisions of sections 6 to 12, inclusive, of this act.]*~~ *(Deleted by amendment.)*

Sec. 8. ~~*[1. Any OSHA 10 or OSHA 30 course offered by the Division is an approved course for the purposes of certification pursuant to section 9 of this act.*~~

~~*2. The Division may, by regulation, approve additional OSHA 10 or OSHA 30 courses for the purposes of certification pursuant to section 9 of this act.]*~~ *(Deleted by amendment.)*

Sec. 9. ~~*[1. The Division shall:*~~

~~*(a) Issue an OSHA 10 certification to any person who submits to the Division proof that he has completed an OSHA 10 course approved by the Division; and*~~

~~*(b) Issue an OSHA 30 certification to any person who submits to the Division proof that he has completed an OSHA 30 course approved by the Division.*~~

~~*2. A certification issued pursuant to this section expires 10 years after the date it is issued.]*~~ *(Deleted by amendment.)*

Sec. 10. ~~*[Not later than 60 days after the date an employee begins work on a construction site, the employee must obtain from the Division an OSHA 10 certification issued pursuant to section 9 of this act.]*~~ *(Deleted by amendment.)*

Sec. 11. ~~*[If an employee on a construction site fails to present his employer with a current and valid OSHA 10 certification not later than 60 days after beginning work on a construction site, his employer shall terminate the employment of the employee.]*~~ *(Deleted by amendment.)*

Sec. 12. ~~*[If the Division finds that an employer has failed to terminate the employment of an employee as required by section 11 of this act, it shall:*~~

~~*1. Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $500.*~~

~~*2. Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $1,000.*~~

~~*3. Upon the third and each subsequent violation, impose upon the employer the penalty authorized by NRS 618.635 in the same manner and amount as if the violation was a willful violation.]*~~ *(Deleted by amendment.)*

Sec. 12.5. *Chapter 618 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. If, after an investigation of an accident occurring in the course of employment which is fatal to one or more employees, the Division issues a citation under the provisions of this chapter, the Division shall offer to enter into a discussion with the immediate family of each deceased employee within a reasonable time after the Division issues the citation.

2. During the discussion, the Division shall provide each family with:

(a) Information regarding the citation and abatement process;

(b) Information regarding the means by which the family may obtain a copy of the final incident report and abatement decision of the Division; and

(c) Any other information that the Division deems relevant and necessary to inform the family of the outcome of the investigation by the Division.

Sec. 13. ~~[NRS 618.015 is hereby amended to read as follows:~~

~~618.015 1. It is the purpose of this chapter to provide safe and healthful working conditions for every employee by:~~

~~(a) Establishing regulations;~~

~~(b) Effectively enforcing such regulations;~~

~~(c) Educating and training employees; and~~

~~(d) Establishing reporting procedures for job-related accidents and illnesses.~~

~~2. The Legislature~~ [finds]~~:~~

~~*(a) Finds* that such safety and health in employment is a matter greatly affecting the public interest of this State.~~

~~*(b) Finds and declares that enforcement is the priority of the Board.]*~~ *(Deleted by amendment.)*

Sec. 14. ~~[NRS 618.025 is hereby amended to read as follows:~~

~~618.025 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 618.029 to 618.165, inclusive, *and sections 2 to 5, inclusive, of this act* have the meanings ascribed to them in such sections.]~~ *(Deleted by amendment.)*

Sec. 15. ~~[NRS 618.075 is hereby amended to read as follows:~~

~~618.075 "Emergency order" means a restraining order issued by the~~ [Division] ~~*Board* for full or partial cessation of operations where conditions may cause death or serious physical harm.]~~ *(Deleted by amendment.)*

Sec. 16. ~~[NRS 618.135 is hereby amended to read as follows:~~

~~618.135 "Order" means any decision, rule, regulation, direction, requirement or standard of the Division *or Board* or any other determination arrived at or decision made by the Division *or Board* under the safety and health provisions of this chapter.]~~ *(Deleted by amendment.)*

Sec. 17. ~~[NRS 618.175 is hereby amended to read as follows:~~

~~618.175 The [Division] *Board* shall supervise and regulate all matters relating to the protection of the safety and health of employees in conformity with the provisions of this chapter.]~~ *(Deleted by amendment.)*

Sec. 18. ~~[NRS 618.185 is hereby amended to read as follows:~~

~~618.185 1. The [Division] *Board* is primarily responsible for occupational safety and health in this State.~~

~~2. The [Division] *Board* may enter agreements with state agencies by which these agencies complement each other's services and work jointly in matters affecting occupational safety and health of employees.]~~ *(Deleted by amendment.)*

Sec. 19. ~~[NRS 618.205 is hereby amended to read as follows:~~

~~618.205 For the purpose of carrying out the provisions of this chapter, the [Division] *Board* shall coordinate to the greatest extent practicable the occupational safety and health activities of all state and local agencies and shall advise, consult and cooperate with other agencies of this State, the Federal Government, agencies of other states, interstate agencies and with affected public and private organizations.]~~ *(Deleted by amendment.)*

Sec. 20. ~~[NRS 618.235 is hereby amended to read as follows:~~

~~618.235 1. The Division must be administered by the Department of Business and Industry.~~

~~2. A decision on any question *relating to subjects under the jurisdiction of the Division and* arising under the *applicable* provisions of this chapter must be the decision of the Administrator, subject to review by the Department.]~~ *(Deleted by amendment.)*

Sec. 21. ~~[NRS 618.255 is hereby amended to read as follows:~~

~~618.255 1. The Division *and Board each* may employ such qualified employees as in the [opinion] *opinions* of the Administrator *and Board, respectively*, are necessary to enforce the provisions of this chapter.~~

~~2. Any safety and health representative employed by the Division *or Board* must have practical experience in the field of construction, trade, craft, technical skill, profession or industry in which his services are required.~~

~~3. The Administrator , *the Board* and other employees of the Division *and Board* must not be financially interested in any business interfering with, or inconsistent with, their duties. Except as otherwise provided in NRS 284.143, the Administrator , *the Board* and other employees of the Division *and Board* shall give their entire time to the business of the Division *or Board, as applicable*, and shall not pursue any other business or vocation or hold any office of profit.~~

~~4. An employee of the Division *or Board* shall not serve on any committee of any political party.]~~ *(Deleted by amendment.)*

Sec. 22. ~~[NRS 618.257 is hereby amended to read as follows:~~

~~618.257 1. The Administrator shall establish:~~

~~(a) Within the Division a Section for [:~~

~~(1) Enforcement; and~~

~~(2)] Safety and Health Consultation, Education, Information and Training.~~

~~(b) Such duties, in addition to the duties described in [subsections 2 and] *subsection* 3, as he deems necessary for the [Sections] *Section* established pursuant to paragraph (a).~~

~~2. If authorized by the Secretary of Labor, the [Section for Enforcement] *Board* shall develop a program for small employers to eliminate or abate hazards to the safety and health of employees. Except as otherwise provided by federal law, if a small employer complies with the program for small employers, the [Section for Enforcement] *Board* may reduce any penalty, fine or interest imposed pursuant to this chapter.~~

~~3. The Section for Safety and Health Consultation, Education, Information and Training shall establish:~~

~~(a) A toll-free telephone number within this State to provide advice to a small employer who seeks assistance in complying with the requirements of this chapter; and~~

~~(b) A program designed to assist a small employer in complying with the requirements of this chapter, including, as appropriate, the preparation and dissemination of pamphlets describing the requirements of this chapter.]~~ *(Deleted by amendment.)*

Sec. 23. ~~[NRS 618.265 is hereby amended to read as follows:~~

~~618.265 1. The Division *and Board* shall maintain [its] *their* principal [office] *offices* in Carson City, Nevada.~~

~~2. The Division *and Board* shall maintain suboffices at such places as industrial activity warrants. Suboffices may have complete facilities to supervise, regulate and enforce the *applicable* provisions of this chapter.]~~ *(Deleted by amendment.)*

Sec. 24. ~~[NRS 618.285 is hereby amended to read as follows:~~

~~618.285 The Division shall:~~

~~1. [Prevent or abate hazards to the safety and health of employees;~~

~~2. Develop a program of eliminating or abating hazards;~~

~~3.] Advise and recommend a program of safety and health applicable to public and state agencies;~~

~~[4. Institute legal proceedings to compel compliance with this chapter or any rules, regulations, standards or orders adopted or issued under this chapter;]and~~

~~[5.] 2. Accept, receive and administer grants and other funds from any private or public source, including the Federal Government.]~~ *(Deleted by amendment.)*

Sec. 25. ~~[NRS 618.295 is hereby amended to read as follows:~~

~~618.295 1. The [Division] *Board* shall adopt such regulations as are necessary to provide safe and healthful employment in those employments within its jurisdiction.~~

~~2. The [Division] *Board* shall not propose standards or regulations for products distributed or used in interstate commerce which are different from federal standards for such products unless such standards are required by compelling local conditions and do not unduly burden interstate commerce.~~

~~3. The [Division] *Board* may adopt by emergency regulation temporary emergency standards for the protection of employees who are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards.~~

~~4. Standards established under this chapter must apply equally to all places of employment.~~

~~5. Standards or regulations must provide for furnishing prompt information to employees by means of labels or warning signs regarding hazards in the workplace. The information must include the suitable precautions, the symptoms and emergency treatment in case of exposure to hazards.~~

~~6. If an employee has been exposed to a hazard and the [Division] *Board* considers a medical examination necessary, the cost of the examination must be paid by the employer. The results of the examination must be furnished only to the [Division] *Board* and, at the request of the employee, to the employee's physician.~~

~~7. Standards or regulations must prescribe the use of suitable protective equipment and control methods or procedures to include monitoring or measuring any exposures. The employees are entitled to be apprised of such monitoring and to obtain the results.~~

~~8. All federal occupational safety and health standards which the Secretary of Labor promulgates, modifies or revokes, and any amendments thereto, shall be deemed Nevada occupational safety and health standards unless the [Division,] *Board*, in accordance with federal law, adopts regulations establishing alternative standards that provide protection equal to the protection provided by those federal occupational safety and health standards.]~~ *(Deleted by amendment.)*

Sec. 26. ~~[NRS 618.305 is hereby amended to read as follows:~~

~~618.305 The [Division] *Board* may consider the following sources in adopting standards under this chapter:~~

~~1. American National Standards Institute (ANSI).~~

~~2. American Society of Mechanical Engineers (ASME).~~

~~3. American Society for Testing and Materials (ASTM).~~

~~4. Code of Federal Regulations (CFR).~~

~~5. National Electrical Code (NEC).~~

~~6. National Fire Protection Association (NFPA).~~

~~7. Any national consensus standard.~~

~~8. Any safety order legally adopted by the [Division.] *Board.]*~~ *(Deleted by amendment.)*

Sec. 27. ~~[NRS 618.315 is hereby amended to read as follows:~~

~~618.315 1. The [Division] *Board* has authority over working conditions in all places of employment except as limited by subsection 2.~~

~~2. The authority of the [Division] *Board* does not extend to working conditions which:~~

~~(a) Exist in household domestic service;~~

~~(b) Exist in motor vehicles operating on public highways of this State; or~~

~~(c) Are regulated pursuant to the Federal Mine Safety and Health Act of 1977 (30 U.S.C. §§ 801 et seq.), the Federal Safety Appliances Act (45 U.S.C. §§ 1 et seq.) or the Federal Railroad Safety Act of 1970 (45 U.S.C. §§ 421 et seq.).~~

~~3. The [Division] *Board* may:~~

~~(a) Declare and prescribe which safety devices, safeguards or other means of protection are well adapted to render employees safe as required by lawful order, state standards or regulations or federal standards, as adopted by the [Division.] *Board.*~~

~~(b) Fix and adopt such reasonable standards and prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, which must be as nearly uniform as practicable, as may be necessary to carry out all laws and lawful orders relative to the protection of the lives, safety and health of employees.~~

~~(c) Adopt such reasonable standards for the construction, repair and maintenance of places of employment as render those places safe and healthful.~~

~~(d) Require the performance of any other act which the protection of the lives, safety and health in places of employment reasonably demands.~~

~~(e) Provide the method and frequency of making investigations, examinations and inspections.~~

~~(f) Prepare, provide and regulate forms of notices, publications and blank forms deemed proper and advisable to carry out the provisions of this chapter, and to charge to employers the printing costs for those publications.~~

~~(g) Furnish blank forms upon request.~~

~~(h) Provide for adequate notice to each employer or employee of his right to administrative review of any action or decision of the [Division] *Board* as set forth in NRS 618.475 and 618.605 and to judicial review.~~

~~(i) Consult with the Health Division of the Department of Health and Human Services with respect to occupational health matters in chapter 617 of NRS.~~

~~(j) Appoint and fix the compensation of advisers who shall assist the [Division] *Board* in establishing standards of safety and health. The [Division] *Board* may adopt and incorporate in its general orders such safety~~

~~and health recommendations as it may receive from advisers.]~~ *(Deleted by amendment.)*

Sec. 28. ~~[NRS 618.325 is hereby amended to read as follows:~~

~~618.325 1. The [Administrator and his representatives appointed under this chapter] *Board* shall act with full power and authority to carry out and enforce the orders, standards and policies fixed by the [Division,] *Board*, and for the purposes set forth in this chapter may:~~

~~(a) Certify to official acts;~~

~~(b) Take depositions;~~

~~(c) Issue subpoenas;~~

~~(d) Compel the attendance of witnesses; and~~

~~(e) Compel the production of books, papers, records, documents and testimony.~~

~~2. Upon presenting appropriate credentials to any employer, the [Administrator] *Board* or [his] *its* representative may:~~

~~(a) Enter without delay and at reasonable times any place of employment; and~~

~~(b) Inspect and investigate during regular working hours or at other reasonable times and within reasonable limits, that place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein, and question privately any employer or an employee.~~

~~3. The [Division] *Board* shall not notify the employer of any randomly scheduled or customary regulatory inspection to be performed by the [Division.] *Board.]*~~ *(Deleted by amendment.)*

Sec. 29. ~~[NRS 618.336 is hereby amended to read as follows:~~

~~618.336 1. The [Division] *Board* shall maintain a record of all oral complaints it receives under this chapter from employees or representatives of employees. The record must include a summary of the substance of each such complaint, a listing of any evidence offered to support the complaint, the date the employer was notified of the complaint and a notation of the action taken by the [Division] *Board* as a result of the complaint. The [Division] *Board* shall submit the record quarterly to the [advisory council of the Division] *Advisory Council* for review and comment.~~

~~2. In addition to the records maintained pursuant to subsection 1, the [Division] *Board* shall maintain a separate logbook which contains a notation of:~~

~~(a) Each oral or written complaint filed by an employee or a representative of employees alleging the existence of an imminent danger or a violation of a safety or health standard that threatens physical harm;~~

~~(b) The action taken by the [Division] *Board* in response to each such complaint, including, as the case may be, a notation of the fact that:~~

~~(1) A special investigation was not made because the complaint was found to be groundless after a preliminary investigation;~~

~~(2) A special investigation was made which resulted in a finding that the complaint was based on reasonable grounds and the [Division] *Board* took such action as was deemed appropriate; or~~

~~(3) A special investigation was made which resulted in a finding that the complaint was not based on reasonable grounds;~~

~~(c) Each citation issued by the [Division] *Board* to an employer and the reason for its issuance;~~

~~(d) Each inspection performed regarding the employer; and~~

~~(e) Each penalty imposed by the [Division] *Board* on an employer and the reason therefor.~~

~~3. The [Division] *Board* shall respond to oral or written requests about the information contained in or compiled from the logbook and otherwise act as necessary to disseminate the information which is required to be compiled pursuant to this section. The logbook maintained pursuant to subsection 2 must be open to public inspection during the [Division's] *Board's* regular hours of operation.~~

~~4. The [Division] *Board* shall retain the records pertaining to its investigations and the records entered in the logbook maintained pursuant to this section for at least 5 years.]~~ *(Deleted by amendment.)*

Sec. 30. ~~[NRS 618.341 is hereby amended to read as follows:~~

~~618.341 1. Except as otherwise provided in this section, the public may inspect all records of the [Division] *Board* which contain information regarding:~~

~~(a) An oral or written complaint filed by an employee or a representative of employees alleging the existence of an imminent danger or a violation of a safety or health standard that threatens physical harm;~~

~~(b) The manner in which the [Division] *Board* acted on any such complaint;~~

~~(c) Any citation issued by the [Division] *Board* to an employer and the reason for its issuance; and~~

~~(d) Any penalty imposed by the [Division] *Board* on an employer and the reason therefor.~~

~~2. The [Division] *Board* shall, upon oral or written request and payment of any applicable charges, provide to any person a copy of any record of the [Division] *Board* which is open to public inspection pursuant to subsection 1. The first six pages reproduced pursuant to each such request must be provided without charge. The charge for each additional page copied must not exceed the cost of reproduction.~~

~~3. Except as otherwise provided in subsection 4 and NRS 239.0115, the [Division] *Board* shall keep confidential:~~

~~(a) The name of any employee who filed any complaint against an employer or who made any statement to the [Division] *Board* concerning an employer; and~~

~~(b) Any information which is part of a current investigation by the [Division,]~~ *Board*~~, but the fact that an investigation is being conducted is public information.~~

~~2. As used in this subsection, "current investigation" means any investigation conducted before the issuance of a citation or notice of violation or, if no citation or notice of violation is issued, an investigation which is not closed.~~

~~4. The [Division]~~ *Board* ~~shall, upon the receipt of a written request from a law enforcement agency, disclose otherwise confidential information to that law enforcement agency for the limited purpose of pursuing a criminal investigation.]~~ *(Deleted by amendment.)*

Sec. 31. ~~[NRS 618.347 is hereby amended to read as follows:~~

~~618.347 The [Division]~~ *Board* ~~shall submit a written report quarterly to the [advisory council of the Division]~~ *Advisory Council* ~~which lists each citation issued by the [Division]~~ *Board* ~~for a violation of NRS 618.375 during that quarter and the circumstances for which the citation was issued. Within 5 working days after submission of such a report to the [advisory council,]~~ *Advisory Council*~~, the [Division]~~ *Board* ~~shall transmit the report to the Legislative Counsel for inclusion in the register of administrative regulations published pursuant to NRS 233B.0653.]~~ *(Deleted by amendment.)*

Sec. 32. ~~[NRS 618.350 is hereby amended to read as follows:~~

~~618.350 The Division shall:~~

~~1. [Develop a program of eliminating or abating hazards;~~

~~2.] Advise and recommend a program of occupational safety and health applicable to public and state agencies; and~~

~~[3.]~~ *2.* ~~[Provide for safety inspections and furnish]~~ *Furnish* ~~advisory services to employers on measures to promote industrial safety and health.]~~ *(Deleted by amendment.)*

Sec. 33. ~~[NRS 618.365 is hereby amended to read as follows:~~

~~618.365 1. This chapter does not supersede or in any manner affect the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act or enlarge, diminish or affect in any other manner the common law or statutory rights, duties or liabilities of employers and employees under the laws of this State with respect to injuries, occupational or other, diseases or death of employees arising out of or in the course of employment.~~

~~2. Statements, reports and information obtained or received by the [Division]~~ *Board* ~~in connection with an investigation under, or the administration or enforcement of, the provisions of this chapter must not be admitted as evidence in any civil action other than an action for enforcement, variance hearing or review under this chapter.~~

~~3. Any report of investigation or inspection or any information concerning trade secrets or secret industrial processes obtained under this chapter must not be disclosed or open to public inspection, except:~~

~~(a) As such information may be disclosed to other officers or employees concerned with carrying out this chapter;~~

~~(b) When relevant in any court proceeding under this chapter; or~~

~~(c) As otherwise provided in NRS 618.341.~~

~~4. The [Division,] *Board*, the courts, and where applicable, the review board may issue such orders as may be appropriate to protect the confidentiality of trade secrets.]~~ *(Deleted by amendment.)*

Sec. 34. ~~[NRS 618.375 is hereby amended to read as follows:~~

~~618.375 Every employer shall:~~

~~1. Furnish employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.~~

~~2. Furnish and use such safety devices and safeguards, and adopt and use such practices, means, methods, operations and processes as are reasonably adequate to render such employment and places of employment safe and comply with all orders issued by the [Division.] *Board*.~~

~~3. Post prominently in the working place all posters and information provided by the Division informing employees of their rights and obligations pursuant this chapter.~~

~~4. Assign at least one person to be in charge of occupational safety and health.~~

~~5. Do every other thing reasonably necessary to protect the lives, safety and health of employees.]~~ *(Deleted by amendment.)*

Sec. 35. ~~[NRS 618.376 is hereby amended to read as follows:~~

~~618.376 1. Every employer shall, upon hiring an employee, provide the employee with a document or videotape setting forth the rights and responsibilities of employers and employees to promote safety in the workplace. The document, or evidence of receipt of the videotape, must be signed by the employer and employee and placed in the employee's personnel file. The document or videotape shall not be deemed to be a part of any employment contract.~~

~~2. The [Division] *Board* shall adopt regulations specifying the contents of such a document or videotape and establishing requirements for making the document or videotape available in different languages.]~~ *(Deleted by amendment.)*

Sec. 36. ~~[NRS 618.378 is hereby amended to read as follows:~~

~~618.378 1. Any accident occurring in the course of employment which is fatal to one or more employees or which results in the hospitalization of three or more employees must be reported by the employer orally to the [nearest office of the Division] *Board* within 8 hours after the time that the accident is reported to any agent or employee of the employer. A report submitted to the [Division] *Board* pursuant to the provisions of this subsection must include:~~

~~(a) The name of the employer;~~

~~(b) The location and time of the accident;~~

~~(c) The number of employees killed or hospitalized as a result of the accident;~~

~~(d) A brief description of the accident; and~~

~~(c) The name of a person who may be contacted by the [Division] *Board* for further information.~~

~~"~~ Upon receipt of such a report, the [Division] *Board* shall notify the employer of the estimated time that the [Division's] *Board's* investigator will arrive at the site of the accident. The [Division] *Board* shall initiate an investigation at the site of the accident within 8 hours after receiving the report.

2. An industrial insurer shall provide to the Division a monthly report setting forth the number, type and severity of industrial injuries and occupational diseases reported or claimed by employees in the preceding month. The report must identify the employer and be sorted according to the employer's Standard Industrial Classification or his classification for the purposes of industrial insurance. The Division shall by regulation prescribe the form for the report made pursuant to this subsection. As used in this subsection, "industrial insurer" has the meaning ascribed to the term "insurer" in NRS 616A.270.

3. All employers shall maintain accurate records and make reports to the United States Assistant Secretary of Labor in the same manner and to the same extent as if this chapter were not in effect.

4. The Division shall make such reasonable reports to the Assistant Secretary of Labor in such form and containing such information as he may from time to time require.

5. Requests for variances to federal recordkeeping and reporting regulations must be submitted to and obtained from the Bureau of Labor Statistics, United States Department of Labor. All variances granted by the Bureau of Labor Statistics must be respected by the Division.] *(Deleted by amendment.)*

Sec. 37. ~~[NRS 618.379 is hereby amended to read as follows:~~

~~618.379 1. Except as otherwise provided in subsection 2, if any accident occurring in the course of employment is fatal to one or more employees or results in the hospitalization of three or more employees, and is caused, in whole or in part, by any equipment located at the site of the accident, no person may dismantle or otherwise move that equipment until the division has investigated the accident and has authorized the dismantling or removal of the equipment.~~

~~2. The provisions of subsection 1 do not apply if the dismantling or removal of the equipment is necessary to free any person trapped by the equipment or to ensure the safety of or to prevent further injury to any person. If any equipment is dismantled or moved to free a trapped person, the equipment may be dismantled or moved only to the extent necessary to free the person.~~

~~3. Upon the occurrence of an accident described in subsection 1, the employer of an injured employee shall, upon the arrival of an investigator of the [Division] *Board* at the site of the accident, make available for questioning in a reasonable amount of time any person employed by the~~

~~employer who is determined by the investigator to be necessary for the completion of the investigation, including the immediate supervisor of any injured employee and any employee who witnessed the accident.~~

~~4. As used in this section, "accident occurring in the course of employment" does not include:~~

~~(a) An accident involving a motor vehicle that is being operated on a public highway in this State.~~

~~(b) A homicide committed at an employer's place of business.]~~ *(Deleted by amendment.)*

Sec. 38. ~~[~~NRS 618.383 is hereby amended to read as follows:

~~618.383 1. Except as otherwise provided in subsections 8 and 9, an employer shall establish a written safety program and carry out the requirements of the program within 90 days after it is established.~~

~~2. The written safety program must include:~~

~~(a) The establishment of a training program for employees concerning safety in the workplace, particularly in those areas where there have been recurring injuries or where explosives are manufactured.~~

~~(b) If an employer has more than 25 employees, or if an employer's employees are engaged in the manufacture of explosives, the establishment of a safety committee. The safety committee must include representatives of employees. If the employees are represented by a labor organization, the representatives of employees must be selected by the employees and not appointed by the employer.~~

~~3. A representative of employees while engaging in the business of a safety committee, including attendance at meetings, authorized inspections or any other activity of the committee, must be paid by his employer as if that employee were engaged in his usual work activities.~~

~~4. The written safety program and all training programs required pursuant to this section must be conducted and made available in a language and format that is understandable to each employee.~~

~~5. The [Administrator of the Division]~~ *Board* ~~shall adopt regulations establishing the minimum requirements for a written safety program.~~

~~6. The [Administrator of the Division]~~ *Board* ~~shall develop and provide each employer with a written guide for establishing a written safety program.~~

~~7. An employer who contracts with a temporary employment service shall provide specialized training concerning safety for the employees of the service before they begin work at each site or as soon as possible thereafter.~~

~~8. An employer who has 10 or fewer employees is exempted from the provisions of this section unless the employer has employees engaged in the manufacture of explosives.~~

~~9. For the purposes of this section, an employer in the mining industry shall not be deemed to be a manufacturer of explosives.~~

~~10. Except as otherwise provided in subsection 11, as used in this section, "explosives" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit~~

~~breakers, detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonation of the compound, mixture or device or any part thereof may cause an explosion.~~

~~11. For the purposes of this section, an explosive does not include:~~

~~(a) Ammunition for small arms, or any component thereof;~~

~~(b) Black powder commercially manufactured in quantities that do not exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers that are intended to be used solely for sporting, recreation or cultural purposes:~~

~~(1) In an antique firearm, as that term is defined in 18 U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or~~

~~(2) In an antique device which is exempted from the definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4), as that section existed on January 1, 1999; or~~

~~(c) Any explosive that is manufactured under the regulation of a military department of the United States, or that is distributed to, or possessed or stored by, the military or naval service or any other agency of the United States, or an arsenal, a navy yard, a depot or any other establishment owned by or operated on behalf of the United States.]~~ *(Deleted by amendment.)*

Sec. 39. ~~[NRS 618.417 is hereby amended to read as follows:~~

~~618.417 The [Administrator]~~ *Board* may grant a variance from any standard or portion thereof whenever [he] *it* determines that a variance is necessary to permit an employer to participate in an experiment designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.~~]~~ *(Deleted by amendment.)*

Sec. 40. ~~[NRS 618.419 is hereby amended to read as follows:~~

~~618.419 1. Any employer may apply to the [Administrator]~~ *Board* for a temporary order granting a variance from a standard which has been adopted pursuant to this chapter but has not become effective. The temporary order may be granted only if the employer files an application which meets the requirements of subsection 2 and, after notice to the affected employees and an opportunity for a hearing, establishes that:

~~(a) He will not be able to comply with the standard by its effective date because of the unavailability of necessary professional or technical personnel or materials and equipment or because necessary construction or alteration of facilities cannot be completed by that date;~~

~~(b) He is taking all available steps to safeguard his employees against the hazards covered by the standard; and~~

~~(c) He has a program which will bring the working conditions into compliance with the standard as quickly as practicable.~~

~~2. The application for such a temporary order must contain:~~

~~(a) A specification of the standard or portion thereof from which the employer seeks a variance;~~

~~(b) A representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor;~~

~~(c) A statement of the steps he has taken and will take, with specific dates, to protect employees against the hazard covered by the standard;~~

~~(d) A statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take, with dates specified, to come into compliance with the standard; and~~

~~(e) A certification that he has informed his employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted, and by other appropriate means. A description of how employees have been informed must be contained in the certification. The information to employees must also inform them of their right to petition to the [Administrator]~~ ~~*Board* for a hearing.~~*]* *(Deleted by amendment.)*

Sec. 41. ~~[NRS 618.421 is hereby amended to read as follows:~~

~~618.421 1. Every temporary order granting a variance from a standard which has not become effective must prescribe:~~

~~(a) The practices, means, methods, operations and processes which the employer must adopt and use while the order is in effect; and~~

~~(b) The program to be carried out by the employer to achieve compliance with the standard.~~

~~2. Such a temporary order is effective for the period needed by the employer to achieve compliance with the standard or 1 year, whichever period is shorter. The temporary order may be renewed, but not more than twice, if:~~

~~(a) The requirements of subsection 1 of NRS 618.419 are met; and~~

~~(b) An application for renewal is filed at least 90 days before the expiration date of the order.~~

~~→ Each renewal may remain in effect no longer than 180 days.~~

~~3. The [Administrator]~~ ~~*Board* may issue one interim order to be effective until a decision is made on the basis of the hearing.~~*]* *(Deleted by amendment.)*

Sec. 42. ~~[NRS 618.425 is hereby amended to read as follows:~~

~~618.425 1. Any [employee, representative of employees, provider of health care or governmental officer or employee whose primary duty is to ensure public safety, including a building inspector, building official or other similar authority,]~~ ~~*person* believing that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an investigation by giving notice, orally or in writing, to~~

~~the [Administrator] *Board* or [his] *its* representative of the violation or danger.~~

~~2. The person giving the notice must state with reasonable particularity the grounds for the notice. Except as otherwise provided in NRS 239.0115, the name of any employee giving a complaint notice or names of employees mentioned in the complaint must be held confidential. If the complaint is given orally, the [Division] *Board* shall send to the complainant a form upon which he may supplement his oral complaint. His failure to return the form does not affect the [Division's] *Board's* duty to act pursuant to this section.~~

~~3. If upon receipt of the notification the [Division] *Board* determines that there are reasonable grounds to believe that a violation or imminent danger exists, it shall make a special investigation within 14 days unless there is a substantial probability that death or serious physical harm could result from the violation or danger, then the investigation must be made immediately after the [Administrator] *Board* receives the notice to determine whether a violation or imminent danger exists. The [Division] *Board* need not investigate a complaint within the times required by this subsection if, from the facts stated in the complaint, the [Administrator] *Board* determines that the complaint is intended solely to harass the employer. If the [Division] *Board* determines that there are no reasonable grounds to believe that a violation or imminent danger exists, it shall notify the employees or other person who gave the notice of such determination within 14 days after the [Administrator] *Board* receives the notice.]~~ *(Deleted by amendment.)*

Sec. 43. ~~[NRS 618.435 is hereby amended to read as follows:~~

~~618.435 1. Before or during any inspection of a workplace, any [employee, representative of employees, provider of health care or governmental officer or employee whose primary duty is to ensure public safety, including a building inspector, building official or other similar authority,] *person* may notify the [Administrator] *Board* or any representative of the [Administrator] *Board* responsible for conducting the inspection, orally or in writing, of any violation of this chapter which they have reason to believe exists in the workplace. The [Division] *Board* shall by regulation establish procedures for informal review of any refusal by a representative of the [Administrator] *Board* to issue a citation with respect to any such alleged violation and shall furnish the employees or other persons requesting the review a written statement of the reasons for the [Administrator's] *Board's* final disposition of the case within 14 days after the [Administrator] *Board* receives the notice.~~

~~2. An opportunity must be afforded to a representative of the employer and an authorized representative of the employees to accompany the representative of the [Division] *Board* during the physical inspection of the place of employment or, where there is no authorized representative of the employees, consultation must be had with a reasonable number of employees, but no more than one employee may accompany the [Division's] *Board's* representative during the inspection.~~

~~3. Any employee of the employer who accompanies the representative of the [Division] *Board* during the inspection pursuant to subsection 2 is entitled to be paid by the employer at his regular rate of pay for the time spent with the representative of the [Division] *Board* inspecting the place of employment if he would have otherwise been compensated for working during that time.~~

~~4. For the purposes of this section, "representative of an employee" means a person previously identified to the [Division] *Board* as an authorized representative of the employee bargaining unit of a labor organization which has a collective bargaining relationship with the employer and represents the affected employees.]~~ *(Deleted by amendment.)*

Sec. 44. ~~[NRS 618.445 is hereby amended to read as follows:~~

~~618.445 1. A person shall not discharge or in any manner discriminate against any employee because the employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by the employee on behalf of himself or others of any right afforded by this chapter.~~

~~2. Any employee aggrieved by a violation of subsection 1 may file a complaint for the relief afforded under subsection 3, after first notifying his employer and the [Division] *Board* of his intention to file the complaint. Any complaint must be filed with the [Division] *Board* within 30 days after the violation has occurred and must set forth in writing the facts constituting the violation.~~

~~3. Upon receipt of the complaint , [by the Division,] the [Administrator] *Board* shall cause such investigation to be made as he deems appropriate. If upon investigation, the [Administrator] *Board* determines that the provisions of subsection 1 have been violated, [he] *it* shall bring an action in the name of the [Administrator] *Board* in any appropriate district court against the person who has committed the violation.~~

~~4. If the court finds that the employee was discharged or discriminated against in violation of subsection 1, the employee is entitled to reinstatement and reimbursement for lost wages and work benefits.~~

~~5. Any decision reached by the [Administrator] *Board* relating to the filing of an action pursuant to this section must be made available to the complaining employee within 90 days after the [Division's] *Board's* receipt of the complaint.]~~ *(Deleted by amendment.)*

Sec. 45. ~~[NRS 618.455 is hereby amended to read as follows:~~

~~618.455 It is unlawful for anyone to give advance notice of an inspection except as authorized by the [Administrator.] *Board.]*~~ *(Deleted by amendment.)*

Sec. 46. ~~[NRS 618.465 is hereby amended to read as follows:~~

~~618.465 1. If, upon inspection or investigation, the [Administrator] *Board* or [his] *its* authorized representative believes that an employer has violated a requirement of this chapter, or any standard, rule or order adopted~~

~~or issued pursuant to this chapter, the [Division] *Board* shall with reasonable promptness issue a citation to the employer. Each citation must be in writing and describe with particularity the nature of the violation, including a reference to the section of this chapter or the provision of the standard, rule, regulation or order alleged to have been violated. In addition the citation must fix a reasonable time for the abatement of the violation. The [Administrator] *Board* may prescribe procedures for the issuance of a notice in lieu of a citation with respect to:~~

~~(a) Minor violations which have no direct or immediate relationship to safety or health; and~~

~~(b) Violations which are not serious and which the employer agrees to correct within a reasonable time.~~

~~2. Each citation issued under this section, or a copy or copies thereof, must be prominently posted as prescribed in regulations adopted by the [Administrator] *Board* at or near each place a violation referred to in the citation occurred.~~

~~3. No citation may be issued under this section after 6 months following the occurrence of any violation.] *(Deleted by amendment.)*~~

Sec. 47. NRS 618.475 is hereby amended to read as follows:

618.475 1. If, after an inspection or investigation, the Division ~~*[Board]*~~ issues a citation under the provisions of this chapter, it shall, within a reasonable time after the termination of the inspection or investigation, notify the employer by certified mail of the penalty, if any, proposed to be assessed under this chapter and that the employer has 15 working days within which to notify the Division ~~*[Board]*~~ that he wishes to contest the citation or proposed assessment of penalty. If, within 15 working days from the receipt of the notice issued by the Division, ~~*[Board,]*~~ the employer fails to notify the Division ~~*[Board]*~~ that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employee or representative of employees under this chapter within such time, the citation and assessment as proposed shall be deemed a final order of the review board and not subject to review by any court or agency. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that the abatement has not been completed because of factors beyond his reasonable control, the Division ~~*[Board]*~~ shall issue an order affirming or modifying the abatement requirements in the citation.

2. *In the case of an accident occurring in the course of employment which is fatal to one or more employees, if an employer notifies the Division that the employer wishes to contest a citation or proposed assessment of penalty, the Division shall provide the Board with information as to how to contact the immediate family of each deceased employee.*

3. Any employee or his representative alleging that the time fixed in the citation for the abatement of a violation by his employer is unreasonable may, within 15 working days after the date of posting of the notice of abatement pursuant to this chapter, file an appeal with the Division ~~*[Board]*~~

to contest the reasonableness of the period of time for abatement of the violation and must be notified in writing as to the time and place of hearing before the review board.

~~[3.]~~ *4.* If no appeal is filed by an employee or his representative under subsection 2 of this section within the time limit of 15 working days, the period of time fixed for the abatement of the violation is final and not subject to review by any court or the review board.

Sec. 48. ~~[NRS 618.495 is hereby amended to read as follows:~~

~~618.495 In an investigation the [Division] *Board* may cause depositions of witnesses residing within or without the State to be taken in the manner prescribed by law and Nevada Rules of Civil Procedure for taking depositions in civil actions in courts of record.]~~ *(Deleted by amendment.)*

Sec. 49. ~~[NRS 618.505 is hereby amended to read as follows:~~

~~618.505 1. Each witness who appears in obedience to a subpoena before the [Division] *Board* or its representative is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record.~~

~~2. Claims for witnesses' fees must be audited and paid by the [Division.] *Board.*~~

~~3. No witness subpoenaed at the instance of a party other than the [Division] *Board* is entitled to compensation from the [Division] *Board* unless the [Division] *Board* certifies that his testimony was material to the matter investigated.]~~ *(Deleted by amendment.)*

Sec. 50. ~~[NRS 618.515 is hereby amended to read as follows:~~

~~618.515 If any person disobeys an order of the [Division,] *Board*, a subpoena issued by it or one of its representatives, refuses to permit an inspection or refuses to testify as a witness to any matter regarding which he may be lawfully interrogated, then the district judge of the county in which the person resides, on application of the [Administrator] *Board* or [his] *its* representative, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoenas issued from the court on a refusal to testify therein.]~~ *(Deleted by amendment.)*

Sec. 51. ~~[NRS 618.525 is hereby amended to read as follows:~~

~~618.525 1. The [Division] *Board* may prosecute, defend and maintain actions in the name of the [Division] *Board* for the enforcement of the provisions of this chapter and is entitled to all extraordinary writs provided by the Constitution of the State of Nevada, the statutes of this State and the Nevada Rules of Civil Procedure in connection therewith for the enforcement thereof.~~

~~2. Verification of any pleading, affidavit or other paper required may be made by the [Division.] *Board.*~~

~~3. In any action or proceeding or in the prosecution of any appeal by the [Division,] *Board*, no bond or undertaking may be required to be furnished by the [Division.] *Board.]*~~ *(Deleted by amendment.)*

Sec. 52. ~~[NRS 618.535 is hereby amended to read as follows:~~

~~618.535 Every order of the [Division,] *Board*, general or special, and its rules, regulations, findings and decisions, made and entered under the provisions of this chapter, are admissible as evidence in any prosecution for the violation of any of the provisions, and must, in every such prosecution, be presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement for safety and health unless, before the institution of the prosecution, proceedings for a rehearing thereon or a review thereof have been instituted and not finally determined.]~~ *(Deleted by amendment.)*

Sec. 53. ~~[NRS 618.545 is hereby amended to read as follows:~~

~~618.545 1. The [Administrator] *Board* may issue an emergency order to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of the danger can be eliminated through the other enforcement procedures provided by this chapter. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct or remove the imminent danger and prohibit the employment or presence of any person in locations or under conditions where the imminent danger exists, except persons whose presence is necessary to avoid, correct or remove the imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations or, where a cessation of operations is necessary, to permit it to be accomplished in a safe and orderly manner.~~

~~2. An order issued pursuant to subsection 1 becomes effective upon delivery to the employer or other person in charge of the place of employment where the danger exists. If, within 15 days after the effective date of the order, the employer fails to notify the [Division] *Board* that he wishes to contest the order, the order shall be deemed a final order and is not subject to review by any court or agency. If the employer contests the order within 15 days after the effective date of the order and the [Division] *Board* does not rescind or modify the order as requested, the employer may petition the court for relief. Upon the filing of such a petition, the district court may grant injunctive relief or a temporary restraining order pending the outcome of an enforcement proceeding pursuant to this chapter.~~

~~3. Whenever and as soon as a representative of the [Division] *Board* concludes that conditions or practices described in subsection 1 exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the [Administrator] *Board* that an emergency order be issued.]~~ *(Deleted by amendment.)*

Sec. 54. ~~[NRS 618.555 is hereby amended to read as follows:~~

~~618.555 If the [Administrator] *Board* arbitrarily or capriciously fails to issue an emergency order pursuant to NRS 618.545, any employee who may be injured by reason of such failure, or the representative of such employees may bring an action against the [Administrator] *Board* in the district court for the district in which the imminent danger is alleged to exist or the employer~~

~~has its principal office, for a writ of mandamus to compel the [Administrator] *Board* to issue such an order and for such further relief as may be appropriate.]~~ *(Deleted by amendment.)*

Sec. 55. ~~[NRS 618.565 is hereby amended to read as follows:~~

~~618.565 1. The Occupational Safety and Health Review Board, consisting of five members appointed by the Governor, is hereby created . [under the Division.]~~

~~2. The Governor shall appoint:~~

~~(a) Two members who are representatives of management.~~

~~(b) Two members who are representatives of labor.~~

~~(c) One member who is a representative of the general public.~~

~~(d) One person to serve as an alternate for the representative of the general public when that member is unable to attend a meeting of the Board.~~

~~→ At least one of the members appointed pursuant to paragraph (a) or (b) must be knowledgeable regarding occupational safety or health.~~

~~3. After the initial terms, members shall serve terms of 4 years. No member may serve more than two terms.~~

~~4. No person employed by the Division may serve as a member of the Board.]~~ *(Deleted by amendment.)*

Sec. 56. ~~[NRS 618.585 is hereby amended to read as follows:~~

~~618.585 1. The Board shall:~~

~~(a) *Provide for safety inspections of places of employment;*~~

~~*(b) Prevent or abate hazards to the safety and health of employees;*~~

~~*(c) Develop a program of eliminating or abating hazards;*~~

~~*(d)* Meet as often as necessary to hold review hearings, as provided in NRS 618.605, at such times and places as the Chairman may determine;~~

~~[(b)]~~ ~~*(e)* Enact rules and regulations governing the conduct of review hearings; and~~

~~[(c) Perform such other duties as the Division may prescribe.]~~

~~*(f) Institute legal proceedings to compel compliance with this chapter or any rules, regulations, standards or orders adopted or issued under this chapter.*~~

~~2. The Board may employ legal counsel to advise it concerning matters which come before it.~~

~~3. A quorum of the Board must be present in order for the conduct of review hearings or other business.~~

~~4. A quorum consists of at least three members of the Board, at least one of whom must represent labor and one of whom must represent management.~~

~~5. All decisions of the Board must be determined by a majority decision.~~

~~6. A complete record of every review hearing must be made.~~

~~7. If the alternate for the regular member representing the general public attends a meeting of the Board in the place of the regular member, the alternate fully assumes the duties, rights and responsibilities for the duration of that meeting and is entitled to the compensation, allowances and expenses otherwise payable for members who attend that meeting.~~

~~*8. Every review hearing shall be open to the public.]*~~ *(Deleted by amendment.)*

Sec. 57. NRS 618.605 is hereby amended to read as follows:

618.605 1. Upon the receipt of any written appeal or notice of contest under NRS 618.475, the Division shall within 15 working days notify the Board of such an appeal or contest.

2. The Board shall hold a formal fact-finding hearing and render its decision based on the evidence presented at the hearing.

3. ~~*[2.]*~~ *Prior to any formal fact-finding hearing involving a citation for an accident occurring in the course of employment which is fatal to one or more employees, the Board shall notify the immediate family of each deceased employee of:*

(a) The time and place of the hearing; and

(b) The fact that the hearing is open to the public.

4. Any employee of an employer or representative of the employee may participate in and give evidence at the hearing, subject to rules and regulations of the Board governing the conduct of such hearings.

Sec. 58. ~~[NRS 618.625 is hereby amended to read as follows:~~

~~618.625 1. The [Division]~~ ~~*Board*~~ ~~may assess administrative fines provided for in this chapter, giving due consideration to the appropriateness of the penalty with respect to the size of the employer, the gravity of the violation, the good faith of the employer and the history of previous violations.~~

~~2. For purposes of this chapter, a serious violation exists in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use in that place of employment unless the employer did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.~~

~~3. Administrative fines owed under this chapter must be paid to the [Division.]~~ ~~*Board.*~~ ~~The fines may be recovered in a civil action in the name of the [Division]~~ ~~*Board*~~ ~~brought in a court of competent jurisdiction in the county where the violation is alleged to have occurred or where the employer has his principal office.]~~ *(Deleted by amendment.)*

Sec. 59. ~~[NRS 618.655 is hereby amended to read as follows:~~

~~618.655 Any employer who fails to correct a violation for which a citation has been issued under this chapter within the period permitted for its correction may be assessed an administrative fine of not more than $7,000 for each day during which the failure or violation continues. If a review proceeding is initiated by the employer in good faith and not solely to delay or avoid any penalties, the period permitted to correct a violation does not begin until the date of the final order of the [Division.]~~ ~~*Board.]*~~ *(Deleted by amendment.)*

Sec. 60. ~~[NRS 618.665 is hereby amended to read as follows:~~

~~618.665 Any employer who willfully refuses to submit his records for inspection, as provided by NRS 618.325, to the [Administrator] *Board* or [his] *its* representative must be assessed an administrative fine of $200 for each offense.]~~ *(Deleted by amendment.)*

Sec. 61. ~~[NRS 618.695 is hereby amended to read as follows:~~

~~618.695 1. Any person who gives advance notice of any inspection of a workplace to be conducted under this chapter, without authority from the [Administrator] *Board* shall be punished by a fine of not more than $2,000 or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.~~

~~2. This section does not prohibit any employer from requesting consultative services at the workplace.]~~ *(Deleted by amendment.)*

Sec. 62. ~~[NRS 618.710 is hereby amended to read as follows:~~

~~618.710 1. A person shall not hold himself out as:~~

~~(a) An associate safety professional or use in connection with his name the words or letters "Associate Safety Professional" or "A.S.P." or any other title, word, letter or other designation intended to imply or designate that he is an associate safety professional, unless he is recognized as such by the Board of Certified Safety Professionals.~~

~~(b) A certified industrial hygienist or use in connection with his name the words or letters "Certified Industrial Hygienist" or "C.I.H." or any other title, word, letter or other designation intended to imply or designate that he is a certified industrial hygienist, unless he is certified as such by the American Board of Industrial Hygiene.~~

~~(c) A certified safety professional or use in connection with his name the words or letters "Certified Safety Professional" or "C.S.P." or any other title, word, letter or other designation intended to imply or designate that he is a certified safety professional, unless he is certified as such by the Board of Certified Safety Professionals.~~

~~(d) An industrial hygienist in training or use in connection with his name the words or letters "Industrial Hygienist in Training" or "I.H.I.T." or any other title, word, letter or other designation intended to imply or designate that he is an industrial hygienist in training, unless he is certified as such by the American Board of Industrial Hygiene.~~

~~(e) An occupational health and safety technologist or use in connection with his name the words "Occupational Health and Safety Technologist" or "O.H.S.T." or any other title, word, letter or other designation intended to imply or designate that he is an occupational health and safety technologist, unless he is certified as such by the Joint Committee of the American Board of Industrial Hygiene and the Board of Certified Safety Professionals.~~

~~(f) An associate safety and health manager or use in connection with his name the words "Associate Safety and Health Manager" or "A.S.H.M." or any other title, word, letter or other designation intended to imply or designate that he is an associate safety and health manager, unless he is recognized as such by the Institute for Safety and Health Management.~~

~~(g) A certified safety and health manager or use in connection with his name the words "Certified Safety and Health Manager" or "C.S.H.M." or any other title, word, letter or other designation intended to imply or designate that he is a certified safety and health manager, unless he is certified as such by the Institute for Safety and Health Management.~~

~~2. The~~ [Division] ~~*Board* shall report any alleged violation of subsection 1 to the district attorney of the county in which the alleged violation occurred.~~

~~3. Any governmental entity that has issued a license to conduct business in this State as an associate safety professional, a certified industrial hygienist, a certified safety professional, an industrial hygienist in training, an occupational health and safety technologist, an associate safety and health manager or a certified safety and health manager to a person who is convicted of violating any provision of subsection 1 shall revoke that license and send notice of the revocation to the licensee by certified mail.~~

~~4. Any person who violates a provision of subsection 1 is guilty of a misdemeanor.]~~ *(Deleted by amendment.)*

Sec. 63. ~~[NRS 618.765 is hereby amended to read as follows:~~

~~618.765 1. Not later than 60 days after June 28, 1989, the Division shall adopt regulations establishing standards and procedures for the licensure of each occupation which are at least as stringent as those contained in the Model Contractor Accreditation Plan for States set out in Appendix C of Subpart E of Part 763 of Title 40 of the Code of Federal Regulations, as it existed on January 1, 1989. The regulations must include standards for:~~

~~(a) Courses which provide initial training;~~

~~(b) Courses which provide a review of the initial training;~~

~~(c) Examinations;~~

~~(d) Qualifications;~~

~~(e) Renewal of licensure; and~~

~~(f) Revocation of licensure.~~

~~2. After consultation with the Health Division of the Department of Health and Human Services, the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the county air pollution control agencies designated pursuant to NRS 445B.500, the Division shall adopt standards for:~~

~~(a) Projects for the control of asbestos;~~

~~(b) Specifying the amount of asbestos within a material which must be present to qualify the material as a "material containing asbestos" for the purposes of NRS 618.750 to 618.850, inclusive;~~

~~(c) Laboratories which analyze building materials for the presence of asbestos;~~

~~(d) Laboratories which collect or analyze air samples for those projects; and~~

~~(e) The assessment of the exposure of occupants of a building at the completion of a project for the control of asbestos.~~

~~3. The Division shall by regulation adopt a standard for the assessment of the exposure of the occupants of a building to airborne asbestos. The standard:~~

~~(a) Must be set according to a time-weighted average concentration of asbestos fibers in the air, measured under normal occupancy conditions; and~~

~~(b) Must be at least as stringent as the corresponding federal standard, if one has been adopted.~~

~~4. The standard adopted pursuant to subsection 3 may be used:~~

~~(a) To assess the need to respond to the presence of asbestos in a building; or~~

~~(b) To determine which buildings or structures are most in need of such response.~~

~~5. The standard does not require the monitoring of the air of any building or structure, or create a duty for the Division or *the Board* to inspect any building or structure, except in connection with the enforcement of this chapter.]~~ *(Deleted by amendment.)*

Sec. 64. ~~[NRS 618.770 is hereby amended to read as follows:~~

~~618.770 1. The costs of carrying out the provisions of NRS 618.750 to 618.850, inclusive, must be paid from assessments payable by each insurer based upon expected annual expenditures for claims. The Division shall adopt regulations which establish formulas of assessment which result in an equitable distribution of costs among the insurers.~~

~~2. In addition, the Division shall by regulation establish a schedule of fees designed to recover revenue to defray the costs of carrying out the provisions of NRS 618.750 to 618.850, inclusive. The Division may collect fees for applications, the issuance and renewal of licenses, examinations, the review and approval of training courses, job notifications and inspections, recordkeeping, and any other activity of the Division *or the Board* related to the provisions of NRS 618.750 to 618.850, inclusive. The fee for the issuance or renewal of a license must not exceed $200.~~

~~3. Any fees collected pursuant to this section must be used to offset the assessments established pursuant to subsection 1.~~

~~4. As used in this section, "insurer" has the meaning ascribed to it in NRS 232.550.]~~ *(Deleted by amendment.)*

Sec. 65. ~~[NRS 618.830 is hereby amended to read as follows:~~

~~618.830 The [Division] *Board* or a person authorized by the [Division] *Board* shall inspect annually at least one project for the control of asbestos conducted by each contractor licensed pursuant to NRS 618.795. The contractor shall, upon request of the [Division] *Board* or a person authorized by the [Division,] *Board*, allow the inspection of all property, activities and facilities at the project and all related documents and records.]~~ *(Deleted by amendment.)*

Sec. 66. ~~[NRS 618.835 is hereby amended to read as follows:~~

~~618.835 1. If the [Division] *Board* finds that a person, other than a worker, has violated any of the provisions of NRS 618.780, 618.790, 618.820~~

~~or 618.825, or the standards or regulations adopted pursuant to NRS 618.750 to 618.850, inclusive, it may:~~

~~(a) Upon the first violation, impose upon him an administrative fine of not more than $15,000.~~

~~(b) Upon the second and subsequent violations:~~

~~(1) Impose upon him an administrative fine of not more than $25,000; and~~

~~(2) If he is licensed pursuant to NRS 618.795, *direct the Division to* revoke his license and require him to fulfill certain training or educational requirements to have his license reinstated.~~

~~3. Any penalty imposed pursuant to this section does not relieve the person from criminal prosecution for engaging in the control of asbestos without a license, nor from the imposition of a penalty pursuant to NRS 445B.640.~~

~~2. If the license of a contractor for projects for the control of asbestos is revoked pursuant to this section and the owner of a building or structure upon which the contractor is engaged in a project employs another licensed contractor to complete the project, the original contractor may not bring an action against the owner of the building or structure for breach of contract or damages based on the employment of another contractor.]~~ *(Deleted by amendment.)*

Sec. 67. ~~[NRS 618.840 is hereby amended to read as follows:~~

~~618.840 1. Except as otherwise provided in subsection 2, if the Division intends to revoke a person's license, it shall first notify him by certified mail. The notice must contain a statement of the Division's legal authority, jurisdiction and reasons for the proposed action.~~

~~2. If the [Division] *Board* finds that protection of the public health requires immediate action, it may *direct the Division to* order a summary suspension of a license pending proceedings for revocation.~~

~~3. A person is entitled to a hearing to contest the summary suspension or proposed revocation of his license. A request for such a hearing must be made pursuant to regulations adopted by the Division.~~

~~4. Upon receiving a request for a hearing to contest a summary suspension, the Division shall hold a hearing within 10 days after the date of the receipt of the request.]~~ *(Deleted by amendment.)*

Sec. 68. ~~[NRS 618.845 is hereby amended to read as follows:~~

~~618.845 The [Division] *Board* may maintain in any court of competent jurisdiction a suit for an injunction against any person engaged in the control of asbestos in violation of the provisions of NRS 618.780, 618.790, 618.820 or 618.825, or the standards or regulations adopted by the division pursuant to NRS 618.750 to 618.850, inclusive. An injunction:~~

~~1. May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.~~

~~2. Does not relieve the person from criminal liability for engaging in the control of asbestos without a license.]~~ *(Deleted by amendment.)*

Sec. 69. ~~[NRS 618.900 is hereby amended to read as follows:~~

~~618.900 If any person violates the provisions of NRS 618.898, the [Division] *Board* may:~~

~~1. Maintain an action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent the violation. The court may proceed in the action in a summary manner.~~

~~2. Unless a greater penalty is provided in this chapter, require the violator to pay an administrative fine of not more than $25,000.]~~ *(Deleted by amendment.)*

Sec. 70. ~~[NRS 618.930 is hereby amended to read as follows:~~

~~618.930 1. In addition to any other remedy or penalty, if the [Division] *Board* finds that a person has violated any provision of NRS 618.910 to 618.936, inclusive, or the standards or regulations adopted pursuant thereto, the [Division] *Board* may:~~

~~(a) Upon the first violation, impose upon the person an administrative fine of not more than $1,500.~~

~~(b) Upon the second violation or a subsequent violation:~~

~~(1) Impose upon the person an administrative fine of not more than $2,500; and~~

~~(2) If the person is licensed pursuant to NRS 618.910 to 618.936, inclusive, suspend or revoke his license and require the person to fulfill certain training or educational requirements to have his license reinstated.~~

~~2. Any penalty imposed pursuant to subsection 1 does not relieve the person from criminal prosecution for acting as a photovoltaic installer without a license.~~

~~3. If the license of a photovoltaic installer is suspended or revoked pursuant to subsection 1 and the owner of a building or structure who has contracted with the photovoltaic installer for a photovoltaic system project contracts with another licensed photovoltaic installer to complete the project, the original photovoltaic installer may not bring an action against the owner of the building or structure for breach of contract or damages based on the contract with the other licensed photovoltaic installer.]~~ *(Deleted by amendment.)*

Sec. 71. ~~[NRS 618.934 is hereby amended to read as follows:~~

~~618.934 The [Division] *Board* may maintain in a court of competent jurisdiction a suit for an injunction against any person who acts as a photovoltaic installer in violation of any provision of NRS 618.910 to 618.936, inclusive, or the standards or regulations adopted pursuant thereto. An injunction:~~

~~1. May be issued without proof of actual damage sustained by any person.~~

~~2. Does not relieve the person from criminal liability for acting as a photovoltaic installer without a license.]~~ *(Deleted by amendment.)*

Sec. 72. ~~[NRS 232.550 is hereby amended to read as follows:~~

~~232.550 As used in NRS 232.550 to 232.700, inclusive, unless the context otherwise requires:~~

~~1. "Administrator" means the Administrator of the Division.~~

~~2. *"Board" means the Occupational Safety and Health Review Board.*~~

~~*3.* "Director" means the Director of the Department of Business and Industry.~~

~~[3.]~~ ~~*4.* "Division" means the Division of Industrial Relations of the Department of Business and Industry.~~

~~[4.]~~ ~~*5.* "Insurer" includes:~~

~~(a) A self-insured employer;~~

~~(b) An association of self-insured public employers;~~

~~(c) An association of self-insured private employers; and~~

~~(d) A private carrier.~~] *(Deleted by amendment.)*

Sec. 73. ~~[NRS 232.600 is hereby amended to read as follows:~~

~~232.600 1. The Council shall act in an advisory capacity to the Administrator *and the Board* and may, on its own initiative or at the request of the Administrator *or the Board*, conduct studies or investigations concerning the organization and administration of the Division *or the Board* and make recommendations to the Administrator *or the board* based on the results of such studies or investigations.~~

~~2. The Council shall review on a quarterly basis the records of oral complaints compiled by the~~ [Division] ~~*Board* pursuant to NRS 618.336. Upon completing its review, the Council shall submit any comments or recommendations regarding the complaints or the records to the~~ [Administrator.] ~~*Board.*~~

~~3. The Council, by the affirmative vote of a majority of its members, may remove from the records of the Division the name of a debtor and the amount of any debt owed by him, if 3 years have elapsed since the debt was incurred and the Council determines that the debt remains impossible or impractical to collect. The Division shall establish a master file containing the information removed from its official records pursuant to this subsection.~~] *(Deleted by amendment.)*

Sec. 74. ~~[NRS 232.680 is hereby amended to read as follows:~~

~~232.680 1. The cost of carrying out the provisions of NRS 232.550 to 232.700, inclusive, and of supporting the Division, *the Board*, a full-time employee of the Legislative Counsel Bureau and the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420, and that portion of the cost of the Office for Consumer Health Assistance established pursuant to NRS 223.550 that is related to providing assistance to consumers and injured employees concerning workers' compensation, must be paid from assessments payable by each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265.~~

~~2. The Administrator shall assess each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265. To establish the amount of the assessment, the Administrator shall determine the amount of money necessary for each of the expenses set forth in subsections 1 and 4 of this section and subsection 3 of~~

~~NRS 616A.425 and determine the amount that is payable by the private carriers, the self-insured employers, the associations of self-insured public or private employers and the employers who provide accident benefits pursuant to NRS 616C.265 for each of the programs. For the expenses from which more than one group of insurers receives benefit, the Administrator shall allocate a portion of the amount necessary for that expense to be payable by each of the relevant group of insurers, based upon the expected annual expenditures for claims of each group of insurers. After allocating the amounts payable among each group of insurers for all the expenses from which each group receives benefit, the Administrator shall apply an assessment rate to the:~~

~~(a) Private carriers that reflects the relative hazard of the employments covered by the private carriers, results in an equitable distribution of costs among the private carriers and is based upon expected annual premiums to be received;~~

~~(b) Self-insured employers that results in an equitable distribution of costs among the self-insured employers and is based upon expected annual expenditures for claims;~~

~~(c) Associations of self-insured public or private employers that results in an equitable distribution of costs among the associations of self-insured public or private employers and is based upon expected annual expenditures for claims; and~~

~~(d) Employers who provide accident benefits pursuant to NRS 616C.265 that reflect the relative hazard of the employments covered by those employers, results in an equitable distribution of costs among the employers and is based upon expected annual expenditures for claims.~~

~~➥ The Administrator shall adopt regulations that establish the formula for the assessment and for the administration of payment, and any penalties that the Administrator determines are necessary to carry out the provisions of this subsection. The formula may use actual expenditures for claims. As used in this subsection, the term "group of insurers" includes the group of employers who provide accident benefits for injured employees pursuant to NRS 616C.265.~~

~~3. Federal grants may partially defray the costs of the Division.~~

~~4. Assessments made against insurers by the Division after the adoption of regulations must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:~~

~~(a) All salaries and other expenses in administering the Division, including the costs of the office and staff of the Administrator.~~

~~(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the Hearings Division of the Department of Administration and the programs of self-insurance and review of premium rates by the Commissioner of Insurance.~~

~~(c) The salary and other expenses of a full-time employee of the Legislative Counsel Bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.~~

~~(d) All salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.~~

~~(e) Claims against uninsured employers arising from compliance with NRS 616C.220 and 617.401.~~

~~(f) That portion of the salaries and other expenses of the Office for Consumer Health Assistance established pursuant to NRS 223.550 that is related to providing assistance to consumers and injured employees concerning workers' compensation.~~

~~5. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.]~~ *(Deleted by amendment.)*

Sec. 75. ~~[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]~~ *Occupational Safety and Health Review Board* ~~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.~~

~~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.]~~ *(Deleted by amendment.)*

Sec. 76. ~~[NRS 244.33505 is hereby amended to read as follows:~~

~~244.33505 1. In a county in which a license to engage in a business is required, the board of county commissioners shall not issue such a license unless the applicant for the license signs an affidavit affirming that the business:~~

~~(a) Has received coverage by a private carrier as required pursuant to chapters 616A to 616D, inclusive, and chapter 617 of NRS;~~

~~(b) Maintains a valid certificate of self-insurance pursuant to chapters 616A to 616D, inclusive, of NRS;~~

~~(c) Is a member of an association of self-insured public or private employers; or~~

~~(d) Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.~~

~~2. In a county in which such a license is not required, the board of county commissioners shall require a business, when applying for a post office box, to submit to the board the affidavit required by subsection 1.~~

~~3. Each board of county commissioners shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a list of the names of those businesses which have submitted an affidavit required by subsections 1 and 2.~~

~~4. Upon receiving an affidavit required by this section, a board of county commissioners shall provide the owner of the business with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace, in accordance with regulations adopted by the [Division of Industrial Relations of the Department of Business and Industry] *Occupational Safety and Health Review Board* pursuant to NRS 618.376.]~~ *(Deleted by amendment.)*

Sec. 77. ~~[NRS 268.0955 is hereby amended to read as follows:~~

~~268.0955 1. In an incorporated city in which a license to engage in a business is required, the city council or other governing body of the city shall not issue such a license unless the applicant for the license signs an affidavit affirming that the business:~~

~~(a) Has received coverage by a private carrier as required pursuant to chapters 616A to 616D, inclusive, and chapter 617 of NRS;~~

~~(b) Maintains a valid certificate of self-insurance pursuant to chapters 616A to 616D, inclusive, of NRS;~~

~~(c) Is a member of an association of self-insured public or private employers; or~~

~~(d) Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.~~

~~2. In an incorporated city in which such a license is not required, the city council or other governing body of the city shall require a business, when applying for a post office box, to submit to the governing body the affidavit required by subsection 1.~~

~~3. Each city council or other governing body of an incorporated city shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a list of the names of those businesses which have submitted an affidavit required by subsections 1 and 2.~~

~~4. Upon receiving an affidavit required by this section, the city council or other governing body of an incorporated city shall provide the applicant with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace in accordance with regulations adopted by the [Division of Industrial Relations of the Department of Business and Industry] *Occupational Safety and Health Review Board* pursuant to NRS 618.376.]~~ *(Deleted by amendment.)*

Sec. 78. ~~[NRS 278.147 is hereby amended to read as follows:~~

~~278.147 1. No person may commence operation in this State of a facility where an explosive, a highly hazardous substance designated pursuant to NRS 459.3816 if present in a quantity equal to or greater than the amount designated pursuant to NRS 459.3816, or a hazardous substance listed in the regulations adopted pursuant to NRS 459.3833 will be used, manufactured, processed, transferred or stored without first obtaining a conditional use permit therefor from the governing body of the city or county in which the facility is to be located. Each governing body shall establish by local ordinance, in accordance with the provisions of this section, the procedures for obtaining such a permit.~~

~~2. An application for a conditional use permit must be filed with the planning commission of the city, county or region in which the facility is to be located. The planning commission shall, within 90 days after the filing of an application, hold a public hearing to consider the application. The planning commission shall, at least 30 days before the date of the hearing, cause notice of the time, date, place and purpose of the hearing to be:~~

~~(a) Sent by mail or, if requested by a party to whom notice must be provided pursuant to this paragraph, by electronic means if receipt of such an electronic notice can be verified, to:~~

~~(1) The applicant;~~

~~(2) Each owner or tenant of real property located within 1,000 feet of the property in question;~~

~~(3) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (2);~~

~~(4) If a mobile home park or multiple unit residence is located within 1,000 feet of the property in question, each tenant of that mobile home park or multiple unit residence;~~

~~(5) If a military installation is located within 3,000 feet of the property in question, the commander of that military installation;~~

~~(6) Any advisory board that has been established for the affected area by the governing body;~~

~~(7) The Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;~~

~~(8) The State Fire Marshal; and~~

~~(9) The [Administrator of the Division of Industrial Relations of the Department of Business and Industry;] *Occupational Safety and Health Review Board;* and~~

~~(b) Published in a newspaper of general circulation within the city or county in which the property in question is located.~~

~~3. The notice required by subsection 2 must:~~

~~(a) Be written in language that is easy to understand; and~~

~~(b) Include a physical description or map of the property in question and a description of all explosives, and all substances described in subsection 1, that will be located at the facility.~~

4. In considering the application, the planning commission shall:

(a) Consult with:

(1) Local emergency planning committees;

(2) The Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(3) The State Fire Marshal;

(4) The [Administrator of the Division of Industrial Relations of the Department of Business and Industry;] *Occupational Safety and Health Review Board;*

(5) The commander of any other military installation that may be affected by the operation of the facility; and

(6) The governing body of any other city or county that may be affected by the operation of the facility; and

(b) Consider fully the effect the facility will have on:

(1) The health and safety of the residents of the city, county or region.

(2) The safety and security of any military installation in the city, county or region.

5. The planning commission shall, within a reasonable time after the public hearing, submit to the governing body its recommendations for any actions to be taken on the application. If the planning commission recommends that a conditional use permit be granted to the applicant, the planning commission shall include in its recommendations such terms and conditions for the operation of the facility as it deems necessary for the protection of:

(a) The health and safety of the residents of the city, county or region.

(b) The safety and security of any military installation in the city, county or region.

6. The governing body shall, within 30 days after the receipt of the recommendations of the planning commission, hold a public hearing to consider the application. The governing body shall:

(a) Cause notice of the hearing to be given in the manner prescribed by subsection 2; and

(b) Grant or deny the conditional use permit within 30 days after the public hearing.

7. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.

8. As used in this section, "explosive" means a material subject to regulation as an explosive pursuant to NRS 459.3816.] *(Deleted by amendment.)*

Sec. 79. [NRS 338.1389 is hereby amended to read as follows:

338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds $250,000 to the contractor who submits the best bid.

~~2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:~~

~~(a) Submitted by a responsive and responsible contractor who:~~

~~(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382;~~ [and]

~~(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4;~~ [and]

~~(3) Has a safety plan completed in coordination with and approved by the Occupational Safety and Health Review Board; and~~

~~(4) Submits with his bid information relating to loss experience; and~~

~~(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits his bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,~~

~~* shall be deemed to be the best bid for the purposes of this section.~~

~~3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:~~

~~(a) Paid directly, on his own behalf:~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:~~

~~(a) Paid directly, on his own behalf:~~

~~(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:~~

~~(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and~~

~~(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.~~

~~6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.~~

~~7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.~~

~~8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.~~

~~9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.~~

~~10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.~~

~~11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed the best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.~~

~~12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.~~

~~13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:~~

~~(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and~~

~~(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.~~

~~14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public~~

~~body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.~~] *(Deleted by amendment.)*

Sec. 80. ~~[NRS 338.147 is hereby amended to read as follows:~~

~~338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds $250,000 to the contractor who submits the best bid.~~

~~2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:~~

~~(a) Submitted by a contractor who:~~

~~(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative;~~ [and]

~~(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4;~~ [and]

~~*(3) Has a safety plan completed in coordination with and approved by the Occupational Safety and Health Review Board; and*~~

~~*(4) Submits with his bid information relating to loss experience; and*~~

~~(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,~~

~~→ shall be deemed to be the best bid for the purposes of this section.~~

~~3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:~~

~~(a) Paid directly, on his own behalf:~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months~~

~~immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:~~

~~(a) Paid directly, on his own behalf:~~

~~(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than $5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:~~

~~(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and~~

~~(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.~~

~~6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.~~

~~7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.~~

~~8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.~~

~~9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.~~

~~10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.~~

~~11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed a best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.~~

~~12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.~~

~~13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:~~

~~(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and~~

~~(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.~~

~~14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.]~~ *(Deleted by amendment.)*

Sec. 81. ~~[NRS 459.382 is hereby amended to read as follows:~~

~~459.382 1. The Health Division of the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry , *the Occupational Safety and Health Review Board* and any other governmental entity or agency of the State responsible for minimizing risks to persons and property posed by facilities and hazardous substances shall submit to the Division of Environmental Protection such reports as the Division deems necessary to carry out the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto. The reports must be submitted at such times and contain such information as required by the Division.~~

~~2. The State Environmental Commission shall adopt by regulation common reporting forms to be used by such governmental entities and agencies when reporting information related to hazardous substances and facilities.~~

~~3. The Division shall review the rules, regulations, standards, codes and safety orders of other governmental entities and agencies of the State responsible for minimizing risks to persons and property posed by facilities and hazardous substances to ensure that they are sufficient to carry out the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto.~~

~~4. If the Division and any other governmental entity or agency of the State have coexisting jurisdiction over the regulation of facilities or hazardous substances located at such facilities, the Division has the final authority to take such actions as are necessary to carry out the provisions of~~

~~NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto.]~~ *(Deleted by amendment.)*

Sec. 82. ~~[NRS 459.3829 is hereby amended to read as follows:~~

~~459.3829 1. No owner or operator of a facility may commence construction or operation of any new process that will be subject to regulation pursuant to NRS 459.380 to 459.3874, inclusive, or any regulation adopted pursuant thereto, unless he first obtains all appropriate permits from the Division to construct the new process and commence operation of the new process. Before issuing any such permits, the Division of Environmental Protection shall consult with the~~ [Division of Industrial Relations of the Department of Business and Industry.] ~~*Occupational Safety and Health Review Board.*~~

~~2. An application for such a permit must be submitted on a form prescribed by the Division of Environmental Protection.~~

~~3. The State Environmental Commission shall adopt regulations establishing the requirements for the issuance of a permit pursuant to this section. An applicant shall comply with requirements that the State Environmental Commission establishes by regulation for the issuance of a permit before the applicant may receive a permit from the Division for the construction and operation of the process.~~

~~4. The Division may charge and collect a fee for the issuance of such a permit.]~~ *(Deleted by amendment.)*

Sec. 83. ~~[NRS 459.3868 is hereby amended to read as follows:~~

~~459.3868 1. A committee shall conduct a comprehensive review and evaluation of the following with respect to each facility within its jurisdiction:~~

~~(a) The degree of compliance with NRS 459.380 to 459.3874, inclusive, the applicable fire codes, the regulations, standards and safety orders of the~~ [Division of Industrial Relations of the Department of Business and Industry,] ~~*Occupational Safety and Health Review Board*, the rules, regulations and standards of the State Environmental Commission and any other standards adopted by the Federal Government, State of Nevada or local governments and their respective agencies for the health and safety of persons and property which may be at risk if those rules, regulations, standards, codes and safety orders are not complied with;~~

~~(b) The effectiveness of the respective governmental entities and their agencies' enforcement of their respective rules, regulations, standards, codes and safety orders; and~~

~~(c) The adequacy and effectiveness of the plans for response to emergencies adopted for the area in which the facility is located in responding to risks posed to the persons and property located within the zone of risk.~~

~~2. A committee shall exercise its best efforts to facilitate cooperation among the various governmental entities and agencies responsible for minimizing risks to persons and property posed by the facility within its~~

~~jurisdiction and the effective enforcement of the various governmental entities' and agencies' rules, regulations, standards, codes and safety orders. A committee shall cooperate to the extent necessary with other committees and governmental agencies to minimize the duplication of records, reports or other information.~~

~~3. A committee shall issue a final report of its comprehensive review and evaluation together with any recommendations. A committee shall make such interim reports as it or the Governor may deem in the public interest. The Division shall distribute the reports to the Governor, members of the committee, local governments within the zone of risk, the various governmental agencies whose rules, regulations, standards, codes or safety orders were the subject of the committee's review and evaluation, and the local media. Copies of the final written report must be made available to the public for purchase at cost of reproduction. All interim reports must be distributed forthwith in the same manner as annual written reports.]~~ *(Deleted by amendment.)*

Sec. 84. ~~[NRS 459.796 is hereby amended to read as follows:~~

~~459.796 A person is entitled to immunity under subsection 2 of NRS 459.792 only if:~~

~~1. In the case of one furnishing advice or assistance, he is qualified by training, education or experience in the handling of hazardous materials and provides advice or assistance within the area of his qualifications; and~~

~~2. He was requested to provide the equipment, advice or other assistance by:~~

~~(a) The person responsible for the discharge;~~

~~(b) The Division of Emergency Management of the Department of Public Safety;~~

~~(c) The~~ [Division of Industrial Relations of the Department of Business and Industry;] ~~*Occupational Safety and Health Review Board;*~~

~~(d) The Division of Environmental Protection of the State Department of Conservation and Natural Resources;~~

~~(e) The Nevada Highway Patrol Division of the Department of Public Safety;~~

~~(f) The State Fire Marshal Division of the Department of Public Safety;~~

~~(g) The State Emergency Response Commission or a local emergency planning committee appointed by the Commission;~~

~~(h) A local fire department; or~~

~~(i) A local agency for law enforcement.]~~ *(Deleted by amendment.)*

Sec. 85. ~~[Chapter 512 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*"Board" means the Occupational Safety and Health Review Board.]~~* *(Deleted by amendment.)*

Sec. 86. ~~[NRS 512.002 is hereby amended to read as follows:~~

~~512.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 512.003 to 512.009, inclusive, *and*~~

~~*section 85 of this act* have the meanings ascribed to them in such sections.]~~ *(Deleted by amendment.)*

Sec. 87. ~~[NRS 512.020 is hereby amended to read as follows:~~

~~512.020 1. Any person employed by the [Administrator]~~ *Board* ~~pursuant to the provisions of this chapter must not:~~

~~(a) Be an officer, director or employee, or have any personal or private interest in any operating mine, mill, smelter or ore reduction plant or the products thereof;~~

~~(b) Hold, directly or indirectly, any financial interest in any company, partnership, organization or corporation or subsidiary of a corporation, which owns, operates or has a financial interest in any mines which are subject to the provisions of this chapter; or~~

~~(c) Be an officer or employee of any labor organization.~~

~~2. A person appointed *by the Board* as the [Assistant Administrator]~~ *person* ~~responsible for the inspection of mines must have at least 7 years of technical, operational or management experience in at least two of the following areas:~~

~~(a) Mines;~~

~~(b) Mills;~~

~~(c) Beneficiation plants; or~~

~~(d) Smelters,~~

~~→ at least 3 years of which must be in underground mining.]~~ *(Deleted by amendment.)*

Sec. 88. ~~[NRS 512.090 is hereby amended to read as follows:~~

~~512.090 The [Administrator]~~ *person appointed by the Board pursuant to the provisions of subsection 2 of NRS 512.020* ~~is entitled to be provided with a properly furnished office in Carson City, Nevada.]~~ *(Deleted by amendment.)*

Sec. 89. ~~[NRS 512.120 is hereby amended to read as follows:~~

~~512.120 The [Administrator]~~ *Board* ~~may:~~

~~1. Employ necessary clerks, technicians, specialists, engineers or consultants.~~

~~2. Authorize representatives to perform all duties required of [him.]~~ *the Board.]* *(Deleted by amendment.)*

Sec. 90. ~~[NRS 512.131 is hereby amended to read as follows:~~

~~512.131 1. The [Administrator]~~ *Board* ~~shall adopt regulations for mine health and safety as necessary to provide safe and healthful working conditions at mines. The regulations must provide protection that is at least equal to the protection provided by the Federal Mine Safety and Health Act, 30 U.S.C. §§ 801 et seq., as amended. The [Administrator]~~ *Board* ~~may consider the following sources in adopting the regulations:~~

~~(a) Common practices of the mining industry;~~

~~(b) The American National Standards Institute;~~

~~(c) The American Society of Mechanical Engineers;~~

~~(d) The American Society for Testing and Materials International;~~

~~(e) Applicable provisions contained in the Code of Federal Regulations;~~

~~(f) The National Fire Protection Association, including, without limitation, the National Electrical Code;~~

~~(g) Any national consensus standard; and~~

~~(h) Any safety order legally adopted by the~~ [Administrator.] ~~*Board.*~~

~~2. The~~ [Administrator] ~~*Board* shall forward a copy of each regulation adopted under this section to the operator of each mine and to the representative of the workers, if any, at the mine. Failure to receive a copy of the regulation does not relieve anyone of the obligation to comply with it.~~] *(Deleted by amendment.)*

Sec. 91. ~~[NRS 512.140 is hereby amended to read as follows:~~

~~512.140 The~~ [Administrator] ~~*Board* shall submit annually to the Governor, as soon as practicable after the beginning of each calendar year, a full report of the administration of~~ [his] ~~*its* functions under this chapter during the preceding calendar year. The report must include, either in summary or detailed form, the information obtained by~~ [him] ~~*the Board* under this chapter together with such findings and comments thereon and such recommendations as~~ [he] ~~*the Board* may deem proper.~~] *(Deleted by amendment.)*

Sec. 92. ~~[NRS 512.151 is hereby amended to read as follows:~~

~~512.151 1. The~~ [Administrator] ~~*Board* shall:~~

~~(a) Develop and conduct programs for the education and training of operators and workers in the recognition, avoidance and prevention of accidents or unsafe or unhealthful working conditions in mines which are subject to the provisions of this chapter; *and*~~

~~(b) To the greatest extent possible, provide technical assistance to operators in meeting the requirements of this chapter and in further improving the health and safety conditions and practices in mines which are subject to the provisions of this chapter.~~ [; and

~~(c) Collect information and statistics relative to mines, mining and the minerals industry of the State.~~]

~~2. The Administrator~~ [may] ~~:~~

~~*(a) Shall collect information and statistics relative to mines, mining and the minerals industry of the State.*~~

~~*(b) May* accept and administer grants and other money received from any private or public source, including the Federal Government, for the purposes of administering the provisions of this chapter.~~] *(Deleted by amendment.)*

Sec. 93. ~~[NRS 512.160 is hereby amended to read as follows:~~

~~512.160 1. Operators shall maintain records and reports and shall submit, at least annually and at such other times as the Administrator deems necessary, and in the form he prescribes, reports of production, employment, mine activity and status, accidents, bodily injuries, loss of life, occupational illnesses and related data.~~

~~2. The Administrator shall compile, keep and analyze and may publish, either in summary or detailed form, the information obtained pursuant to the~~

~~provisions of subsection 1. *The Administrator shall provide to the Board in detailed form the information obtained pursuant to the provisions of subsection 1.*~~

~~3. Operators shall notify the Administrator before opening and upon closing mine operations. The notice must include the name and location of the mine, the name and address of the operator, the name of the person in charge of the operation, a statement of whether the operation will be continuous or intermittent, and upon closing, a statement of whether the closing is temporary or permanent.]~~ *(Deleted by amendment.)*

Sec. 94. ~~[NRS 512.170 is hereby amended to read as follows:~~

~~512.170 At least once a year and at such other times as required the [Administrator,] *Board* or [his] *its* designee, shall visit each mining county in this state and thoroughly inspect and investigate all such mines therein as, in [his] *the* judgment [,] *of the Board*, may require inspection and investigation for the purposes of:~~

~~1. Determining whether there has been compliance with health and safety regulations or standards adopted or notices or orders issued pursuant to the provisions of this chapter;~~

~~2. Determining whether an imminent danger exists;~~

~~3. Determining the cause or causes of accidents, bodily injuries, loss of lives or occupational illnesses which have occurred in such mines;~~

~~4. Determining if there are dangerous conditions or practices with respect to the condition or manner of use of equipment, machinery or apparatus; and~~

~~5. Obtaining such other information for any other purpose as [he] *the Board* may deem advisable.]~~ *(Deleted by amendment.)*

Sec. 95. ~~[NRS 512.180 is hereby amended to read as follows:~~

~~512.180 1. The [Administrator] *Board and its designee* may enter all mines in this state subject to the provisions of this chapter, for the purposes of inspections, investigations or access to records and reports required to be maintained or for any other purpose necessary in the proper discharge of [his] *the* official duties [.] *of the Board.* Operators shall render the [Administrator] *the Board and its designee* such assistance as may be required to enable [him] *the Board and its designee* to make a full, thorough and complete inspection or investigation of each and every part of such mine or mines. No advance notice of an inspection must be provided to any operator, worker, or representative of the workers, if any, at such mine.~~

~~2. At the commencement of any inspection of a mine by the [Administrator,] *the Board or its designee* the authorized representative of the workers at the mine must be given an opportunity to accompany the [Administrator] *the Board or its designee* on the inspection and to participate in any conference held at the conclusion of the inspection. If there is no representative of the workers, the [Administrator] *Board or its designee* shall consult with a reasonable number of workers concerning matters of health and safety at the mine.]~~ *(Deleted by amendment.)*

Sec. 96. ~~[NRS 512.190 is hereby amended to read as follows:~~

~~512.190 1. Whenever, as the result of the inspection of any mine, the [Administrator] *Board or its designee* finds that an imminent danger exists in the mine or with respect to the condition or manner of use of equipment, machinery or apparatus, [he] *the Board or its designee* shall thereupon issue an order:~~

~~(a) Requiring the operator to cause all persons except those referred to in subsection 5, to be withdrawn immediately from and prohibited from entering the area where such danger exists until he determines that such imminent danger no longer exists.~~

~~(b) Prohibiting such equipment, machinery or apparatus to be used or operated until he determines that such imminent danger no longer exists.~~

~~2. If, upon any inspection of a mine, the [Administrator] *Board or its designee* finds that there has been a violation of any health or safety regulation or standard adopted pursuant to the provisions of this chapter, but the violation has not created an imminent danger, [he] *the Board or its designee* shall issue a notice to the operator fixing a reasonable time for the abatement of the violation. If the [Administrator] *Board or its designee* subsequently finds:~~

~~(a) Upon the expiration of the period of time as originally fixed or extended for the abatement of the violation, that the violation has not been totally abated and that the period of time should not be further extended; or~~

~~(b) Another violation of any health or safety regulation or standard caused by failure of an operator to prevent the occurrence of such violation due to indifference, lack of diligence or lack of reasonable care, during the same inspection or any subsequent inspection within 90 days after the issuance of the notice,~~

~~➥ [he] *the Board or its designee* shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection 5, to be withdrawn from and prohibited from entering the area until he determines that such violation has been abated.~~

~~3. If the [Administrator] *Board or its designee* finds a violation of a health and safety regulation or standard within 30 days following the abatement of a violation which resulted in the issuance of a withdrawal order under paragraph (b) of subsection 2, [he] *the Board or its designee* shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection 5, to be withdrawn from and prohibited from entering the area until he determines that such violation has been abated.~~

~~4. If, as a result of any investigation of any accident occurring in a mine or as a result of any other investigation or tests performed by the [Administrator, he] *Board or its designee, the Board or its designee* has reason to believe that any equipment, machinery or apparatus will cause an accident, the [Administrator] *Board or its designee* may, by order, prohibit the use or operation in any mine of such equipment, machinery or apparatus~~

~~until [he] *the Board or its designee* determines that such equipment, machinery or apparatus has been repaired, modified, reconditioned or altered in a manner that an accident will thereafter be avoided.~~

~~5. The following persons are not required to be withdrawn from, or prohibited from entering, any area of the mine subject to a withdrawal order issued under this section:~~

~~(a) Any person whose presence in the area is necessary, in the judgment of the operator or the [Administrator,] *Board or its designee*, to eliminate the condition described in the order;~~

~~(b) Any public official whose official duties require him to enter the area; and~~

~~(c) Any consultant to any of the foregoing.~~

~~6. A notice or order issued under this section is prima facie evidence of the culpable negligence of an operator in a criminal or civil proceeding at law against such operator for loss of life or bodily injury sustained because of the operator's failure or refusal to comply with the requirements stated in the notice or order.]~~ *(Deleted by amendment.)*

Sec. 97. ~~[NRS 512.195 is hereby amended to read as follows:~~

~~512.195 1. Notices and orders issued pursuant to this chapter:~~

~~(a) Must contain a detailed description of the conditions or practices which cause and constitute a situation of imminent danger or a violation of any health or safety regulation or standard and, where appropriate, a description of the area of the mine from which persons, equipment, machinery or apparatus must be withdrawn and prohibited from entering, and a description of the equipment, machinery or apparatus prohibited from being used or operated.~~

~~(b) Must be in writing and signed by *a representative of* the [Administrator] *Board* and given promptly to the operator of the affected mine.~~

~~(c) May be modified, vacated or terminated by the [Administrator.] *Board or its designee*.~~

~~2. The [Administrator] *Board or its designee* shall furnish immediately a copy of any notice or order issued pursuant to this chapter to the operator and to a representative of the workers, if any, at the affected mine.~~

~~3. If an order is issued pursuant to subsection 1 of NRS 512.190 and the Mine Safety and Health Administration of the United States Department of Labor did not participate in the inspection on which that order is based, the [Administrator] *Board* shall notify the Mine Safety and Health Administration of the United States Department of Labor that the order has been issued.]~~ *(Deleted by amendment.)*

Sec. 98. ~~[NRS 512.200 is hereby amended to read as follows:~~

~~512.200 1. Whenever any [worker or a representative of the workers, if any,] *person* has reasonable grounds to believe that a violation of a health or safety regulation or standard exists, or an imminent danger exists, the~~

~~[worker or representative of the workers]~~ ~~*person* may obtain an inspection by giving notice to the~~ [Administrator] ~~*Board* of the violation or danger.~~

~~2. The notice must be in writing, signed by the~~ [worker or representative of the workers,] ~~*person*, and a copy must be provided to the operator no later than at the time of inspection, except that, upon the request of the person giving notice, his name~~ [and the names of individual workers referred to therein] ~~must not appear in the copy.~~

~~3. Upon receipt of notification by the~~ [Administrator,] ~~*Board*, an inspection in accordance with the provisions of this chapter may be made as soon as practicable to determine if a violation or imminent danger exists.~~] *(Deleted by amendment.)*

Sec. 99. ~~[NRS 512.210 is hereby amended to read as follows:~~

~~512.210 Upon the unwarrantable failure of an operator to comply or upon refusal of an operator of any mine to comply with the requirements of any order issued to such operator, the~~ [Administrator] ~~*Board* may immediately notify the Attorney General of the unwarrantable failure to comply or the refusal. The Attorney General, or the district attorney of the county in which the mine is situated at the instigation of the Attorney General, must thereupon immediately commence an action in the name of the State against the operator so notified for the enforcement of the penalty designated in NRS 512.270.~~] *(Deleted by amendment.)*

Sec. 100. ~~[NRS 512.220 is hereby amended to read as follows:~~

~~512.220 1. Whenever a serious accident occurs in any mine in this state subject to the provisions of this chapter, the operator shall, immediately and by the quickest means, notify the~~ [Administrator or his deputy, as may be most convenient,] ~~*Board* of the accident, and shall take appropriate measures to preserve everything which might assist the~~ [Administrator] ~~*Board* in determining the cause or causes of the accident. Except as necessary to alleviate or eliminate any situation constituting an imminent danger or an unwarranted danger to property, a person shall not alter any condition which might assist the~~ [Administrator] ~~*Board* in determining the cause or causes of the accident.~~

~~2. The~~ [Administrator] ~~*Board* may investigate fully the cause of the accident as soon as practicable after receipt of notification.~~] *(Deleted by amendment.)*

Sec. 101. ~~[NRS 512.231 is hereby amended to read as follows:~~

~~512.231 Copies of regulations and standards adopted and notices and orders issued by the~~ [Administrator] ~~*Board* pursuant to the provisions of this chapter must be posted by the operator on a bulletin board located in a conspicuous place at the mine.~~] *(Deleted by amendment.)*

Sec. 102. ~~[NRS 512.270 is hereby amended to read as follows:~~

~~512.270 1. Any operator who:~~

~~(a) Violates, fails or refuses to comply with any health or safety regulation or standard adopted by the~~ [Administrator] ~~*Board* pursuant to the provisions of this chapter;~~

~~(b) Interferes with, hinders or delays the~~ [Administrator] ~~*Board or its designee* in carrying out the duties required under this chapter;~~

~~(c) Refuses admission to the~~ [Administrator] ~~*Board or its designee* upon or through any mine which is subject to the provisions of this chapter or to render assistance;~~

~~(d) Refuses to permit the~~ [Administrator] ~~*Board or its designee* to inspect or investigate any mine which is subject to the provisions of this chapter, or of any accident, bodily injury, fatality or occupational illness occurring at or connected with the mine;~~

~~(e) Refuses to furnish to the~~ [Administrator] ~~*Board* any information or report requested by the~~ [Administrator] ~~*Board* pursuant to this chapter;~~

~~(f) Knowingly makes any false statement or representation, or fails to make any statement or representation in any record, report or other document filed or required to be maintained pursuant to this chapter;~~

~~(g) Refuses to permit the~~ [Administrator] ~~*Board or its designee* to inspect or investigate any equipment, machinery, apparatus, tools or other property with respect to its condition or manner of use at any mine subject to the provisions of this chapter;~~

~~(h) Fails to maintain any information or report required to be maintained pursuant to this chapter; or~~

~~(i) Violates or fails or refuses to comply with an order of withdrawal issued pursuant to NRS 512.190,~~

~~**~~ ~~is guilty of a gross misdemeanor.~~

~~2. Each separate provision not complied with and each day after conviction of failure to comply with any standard or provision or this chapter is a separate offense and punished accordingly.~~] *(Deleted by amendment.)*

Sec. 103. ~~[NRS 616A.425 is hereby amended to read as follows:~~

~~616A.425 1. There is hereby established in the State Treasury the Fund for Workers' Compensation and Safety as an enterprise fund. All money received from assessments levied on insurers and employers by the Administrator pursuant to NRS 232.680 must be deposited in this Fund.~~

~~2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the Division for functions supported in whole or in part from the Fund must be delivered to the custody of the State Treasurer for deposit to the credit of the Fund.~~

~~3. All money and securities in the Fund must be used to defray all costs and expenses of administering the program of workmen's compensation, including the payment of:~~

~~(a) All salaries and other expenses in administering the Division of Industrial Relations, including the costs of the office and staff of the Administrator.~~

~~(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the Hearings Division of the Department of Administration and the programs of self-insurance and review of premium rates by the Commissioner.~~

~~(c) The salary and other expenses of a full-time employee of the Legislative Counsel Bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.~~

~~(d) All salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.~~

~~(e) Claims against uninsured employers arising from compliance with NRS 616C.220 and 617.401.~~

~~(f) That portion of the salaries and other expenses of the Office for Consumer Health Assistance established pursuant to NRS 223.550 that is related to providing assistance to consumers and injured employees concerning workers' compensation.~~

~~*(g) All salaries and other expenses in administering the Occupational Safety and Health Review Board.*~~

~~4. The State Treasurer may disburse money from the Fund only upon written order of the Controller.~~

~~5. The State Treasurer shall invest money of the Fund in the same manner and in the same securities in which he is authorized to invest state general funds which are in his custody. Income realized from the investment of the assets of the Fund must be credited to the Fund.~~

~~6. The Commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the Commissioner 30 days before their effective date. Any insurer or employer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.~~

~~7. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.~~] *(Deleted by amendment.)*

Sec. 104. ~~[NRS 616B.735 is hereby amended to read as follows:~~

~~616B.735 With respect to a construction project for which the owner intends to establish and administer an owner-controlled insurance program or the principal contractor intends to establish and administer a contractor-controlled insurance program, the owner or principal contractor, as appropriate, shall:~~

~~1. In the notice or advertisement for bids for the construction of the project, state:~~

~~(a) That the employees of contractors and subcontractors who are engaged in the construction of the project will be covered under a consolidated insurance program when such employees work at the site of the project; and~~

~~(b) Whether such a program will be an owner-controlled insurance program or a contractor-controlled insurance program; and~~

~~2. Hold a pre-bid conference at which it provides to potential contractors and subcontractors, without limitation, the following information:~~

~~(a) A general explanation of the manner in which a consolidated insurance program operates;~~

~~(b) An overview of the provisions of NRS 616B.710 to 616B.737, inclusive;~~

~~(c) A general description of the safety procedures that will be required as part of the consolidated insurance program; and~~

~~(d) The procedures pursuant to which claims for industrial insurance will be administered.~~

~~*3. Implement a safety plan completed in coordination with and approved by the Occupational Safety and Health Review Board, including, without limitation, the assignment of at least one person to be in charge of occupational safety and health, as required by subsection 4 of NRS 618.375, on the site of the project when employees are working on that site.]*~~ *(Deleted by amendment.)*

Sec. 105. ~~[Chapter 624 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Before granting a renewal of a contractor's license to any applicant, the Board shall require that the applicant submit to the Board a current and valid OSHA 30 certification obtained by the applicant pursuant to section 9 of this act.]~~ *(Deleted by amendment.)*

Sec. 106. ~~[This act becomes effective on July 1, 2009.]~~ *(Deleted by amendment.)*

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 literally deletes the original bill, and the amendment does now become the bill.

The amendment deals with the Division of Industrial Relations (DIR) communicating certain information with the immediate family of a worker who is killed as a result of an industrial injury.

The amendment also requires DIR to provide certain information regarding the deceased worker's immediate family to the Occupational Safety and Health Review Board under certain circumstances.

The testimony that the committee heard on this particular measure was a thread of frustration through all of it with family members not being able to receive information. Therefore, in essence, what will happen, now, is if a fatality occurs, an investigation will proceed and a citation will be issued. After the citation is issued, the family will be contacted by DIR to explain to them the processes of everything that has happened and how the process will proceed with informal conferences, settlement conferences and the review boards. The amendment states, within a reasonable time, that they will meet with the family. The family does not have to meet with them if they have no issues, but we wanted to reach out to them to explain the processes that will be happening upon the result of a fatality.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 310.

Bill read second time.

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

Amendment No. 423.

"SUMMARY—Revises provisions governing the regulation of trust companies. (BDR 55-788)"

"AN ACT relating to trust companies; establishing various requirements for licensing as a retail trust company; establishing certain minimum capital requirements for ~~[retail]~~ trust companies; authorizing the Commissioner of Financial Institutions to take various actions relating to the regulation of trust companies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 3, 4, 6-8, 12-14, 16 *,* ~~[,]~~ 18, 25-27 and 30-36 of this bill revise various provisions governing the licensing and conduct of retail trust companies.

Sections 15-21, 31 and 35 of this bill authorize the Commissioner of Financial Institutions to take various actions concerning the activities of retail trust companies and the enforcement of chapter 669 of NRS.

Section 26 of this bill revises the minimum requirements for the amount of capital that must be held by ~~[a retail]~~ trust ~~[company.]~~ *companies.*

Section 30 of this bill revises various fees relating to the licensing of retail trust companies.

Section 11 of this bill makes certain information provided to the Division of Financial Institutions of the Department of Business and Industry confidential in certain circumstances.

Section 9 of this bill authorizes the Commissioner to be a signatory to the Nationwide Cooperative Agreement for Supervision and Examination of Multi-State Trust Institutions as adopted by the Conference of State Bank Supervisors.

~~[Section 5 of this bill allows for family trust companies to apply for exemption from the licensing requirements of chapter 669 of NRS.]~~

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

Section 1. Chapter 669 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. *1. "Family trust company" means a nondepository trust company which is organized and licensed under this chapter by a designated relative to engage in trust company business with one or more family members and which does not transact business with the general public.*

2. As used in this section:

(a) "Designated relative" means the person who is so designated in the application for a license under NRS 669.150.

(b) "Family member" means the designated relative and:

(1) Any person within the fifth degree of lineal kinship to the designated relative;

(2) Any person within the ninth degree of collateral kinship to the designated relative;

(3) The spouse of the designated relative;

(4) A spouse of any person qualifying as a family member under subparagraph (1) or (2);

(5) Any person within the fifth degree of lineal kinship of the spouse identified in subparagraph (3);

(6) A company controlled by one or more family members, who possess, directly or indirectly, the power to direct or cause the direction of the management and policies of the company, whether through the ownership of voting securities, by contract or otherwise;

(7) A trust established by a family member or by a person who is not a family member if noncharitable beneficiaries who are family members represent a majority interest in the trust;

(8) The estate of a family member; or

(9) A charitable foundation or charitable entity created by a family member.

Sec. 2.3. *"Grandfathered trust company" means a trust company that:*

1. Held a license pursuant to this chapter on March 16, 2009; or

2. Filed an application for a license pursuant to this chapter with the Commissioner on or before March 16, 2009, and held such license on October 1, 2009.

Sec. 2.7. *1. "Noncustodial trust company" means a grandfathered trust company that:*

(a) Does not manage, or advise regarding, in the aggregate, more than $100,000,000 worth of a client's asset;

(b) Does not have custody or control of a client's assets that exceed 20 percent of the total assets that the trust company manages for that client; and

(c) To the extent that the trust company has custody or control of a client's assets, invests such assets pursuant to:

(1) Direction by the client; or

(2) The prudent investor standards of NRS 164.700 to 164.775, inclusive.

2. For the purposes of this section:

(a) "Advise" means to provide investment advice.

(b) "Control" means the ability to invest or transfer cash or any other asset in a fiduciary or client account to any person other than:

(1) In the case of an account for which the trust company acts as fiduciary, the settlor or beneficiary; and

(2) In the case of any other account of a client, the owner of the account.

(c) "Manage" means the exercise of discretion regarding investments, whether or not that discretion is delegated to another person.

Sec. 3. *"Retail trust company" means an entity which is licensed under this chapter and engaged in a trust company business in this State* *. ~~[and which does not meet the definition of a family trust company.]~~*

Sec. 4. *1. A retail trust company licensed in this State shall maintain its principal office in this State.*

2. The conditions for a retail trust company to fulfill the requirements of subsection 1 include, but are not limited to:

(a) A verifiable physical office in this State that conducts such business operations in this State as are necessary to administer trusts in this State;

(b) The presence of an employee that is a resident of Nevada in the principal office who has experience that is satisfactory to the Commissioner in accepting and administering trusts;

(c) Maintenance of originals or true copies of all material business records and accounts of the retail trust company which may be accessed and are readily available for examination by the Division of Financial Institutions;

(d) Maintenance of the required cash portion of the stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks or other financial institutions located in this State;

(e) The provision of services to residents of this State consistent with the business plan provided by the trust company with its license application; and

(f) Such other conditions that the Commissioner may require to protect the public interest.

Sec. 5. ~~*[1. A family trust company may apply for an exemption from being licensed under this chapter.*~~

~~*2. To apply for an exemption from being licensed under this chapter, a family trust company must, before acting as a fiduciary in this State, notify the Commissioner by letter, executed by its chief executive officer and sent by certified mail, return receipt requested, together with a fee of $500, of the following:*~~

~~*(a) The name and main address of the family trust company;*~~

~~*(b) That it qualifies as a family trust company and requests an exemption from licensing;*~~

~~*(c) The name of the designated relative; and*~~

~~*(d) That it will not transact trust company business with, propose to act as a fiduciary for, or solicit trust company business from any person that is not a family member.*~~

~~*3. Within 60 days after receipt of an application pursuant to subsection 2, the Commissioner shall:*~~

~~*(a) Acknowledge receipt of the application and grant the exemption; or*~~

~~*(b) Inform the family trust company of any deficiency in the application.*~~

~~*4. The application, the Commissioner's reply and any subsequent information provided by the company are confidential information pursuant to section 11 of this act.]*~~ *(Deleted by amendment.)*

Sec. 6. *1. The Commissioner may conduct a pre-opening examination of a retail trust company and, in rendering a decision on an application for a license as a retail trust company, consider:*

(a) The proposed market or markets to be served and, if they extend outside of this State, any exceptional risk, examination or supervision concerns associated with such markets;

(b) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets, including, without limitation, the average level of assets under management and administration projected for each of the first 3 years of operation;

(c) Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;

(d) Whether the proposed officers and directors or managers of the proposed retail trust company, as a group, have sufficient experience, ability, standing and competence and whether each individually has sufficient trustworthiness and integrity to justify a belief that the proposed retail trust company will be free from improper or unlawful influence and otherwise will operate in compliance with the law and applicable fiduciary duties and that success of the proposed retail trust company is reasonably probable;

(e) Whether any investment services to trusts, estates, charities, employee benefit plans and other fiduciary accounts or to natural persons, partnerships, limited-liability companies and other entities, including, without limitation, providing investment advice with or without discretion or selling investments in or investment products of affiliated or nonaffiliated persons, will be conducted in compliance with all applicable fiduciary standards, including, without limitation, NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material information;

(f) Whether the proposed retail trust company will be exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. § 80a-1 et seq., and any similar state laws in each state where it would otherwise be required to register and, if not, whether it will comply with such registration requirements before commencing business and thereafter will comply with all federal and state laws and regulations applicable to it, its employees and representatives as a registrant under such laws;

(g) Whether the proposed retail trust company will obtain suitable annual audits by qualified outside auditors of its books and records and its fiduciary activities under applicable account rules and standards as well as suitable internal audits; and

(h) Any other factors that the Commissioner may require.

2. The Commissioner may require a retail trust company to maintain capital in excess of the minimum required either initially or at any subsequent time based on his assessment of the risks associated with the retail trust company's business plan or any other circumstances revealed in the application, his investigation of the application or any examination of or filing by the retail trust company thereafter, including any examination before the opening of the retail trust company for business. In making such a determination, the Commissioner may consider:

(a) The nature and type of business proposed to be conducted by the retail trust company;

(b) The nature and liquidity of assets proposed to be held in its own account;

(c) The amount of fiduciary assets projected to be under management or under administration of the retail trust company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken by the retail trust company;

(f) The competence and experience of proposed management of the retail trust company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence or absence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The existence and adequacy of insurance proposed to be obtained by the retail trust company for the purpose of protecting its fiduciary assets;

(k) The success of the retail trust company in achieving the financial projections submitted with its licensing application;

(l) The fulfillment by the retail trust company of its representations and its descriptions of its business structures and methods and management set forth in its licensing application; and

(m) Any other factor that the Commissioner may require.

Sec. 7. *1. A license issued pursuant to this chapter is not transferable or assignable. Upon approval of the Commissioner, a licensee may merge or consolidate with, or transfer its assets and control to, another entity that has been issued a license under this chapter.* *In making a determination regarding whether to grant such approval, the Commissioner may consider the factors set forth in paragraphs (a) to (m), inclusive, of subsection 2 of section 6 of this act.*

2. If there is a change in control of any retail trust company, the chief executive officer or managing member of the retail trust company shall report the fact and the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A retail trust company shall, within ~~*[31*~~ *5 business days after there is a change in the chief executive officer, managing member or a majority of the directors or managing directors of the retail trust company, report the change to the Commissioner. The retail trust company shall include in its report a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.*

4. A person who acquires control as a result of a change of control of a retail trust company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business of a trust company in a manner which protects the interests of the general public.

5. The retail trust company with which the applicant described in subsection 4 is affiliated shall pay the nonrefundable cost of the investigation as the Commissioner requires. If the Commissioner denies the application, he may forbid or limit the applicant's participation in the business of the trust company.

6. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of a retail trust company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, a retail trust company.

Sec. 8. *1. It is unlawful for any retail trust company licensed in this State to engage in trust company business at any office outside this State without the prior approval of the Commissioner.*

2. Before the Commissioner will approve a branch to be located in another state, the retail trust company must:

(a) Obtain from that state a license as a trust company; or

(b) Meet all the requirements to operate a trust company in that state.

Sec. 9. *The Commissioner is authorized to be, on his own behalf and that of the Division of Financial Institutions, a signatory to the Nationwide Cooperative Agreement for Supervision and Examination of Multi-State Trust Institutions as adopted by the Conference of State Bank Supervisors and exercise his discretion in the supervision of multi-state trust institutions consistently with that agreement.*

Sec. 10. *1. The Commissioner may require a licensee to provide an audited financial statement prepared by an independent certified public accountant licensed to do business in this State.*

2. On the fourth Monday in January of each year, each licensee shall submit to the Commissioner a list of stockholders required to be maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.

3. The list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241 must include the percentage of each member's interest in the company, in addition to the requirements set forth in that section.

4. Except as otherwise provided in NRS 239.0115, any document submitted pursuant to this section is confidential.

Sec. 11. *Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted by a person pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division of Financial Institutions pursuant to an examination or audit conducted by the Division are confidential and may be disclosed only to:*

1. The Division, any authorized employee of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; and

2. Any person when the Commissioner, in his discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.

Sec. 12. *The Commissioner may direct that the board of directors or managers of a retail trust company meet at least quarterly in regular meetings to review the books, records, funds and securities held by the retail trust company in its individual and fiduciary capacities and maintain a written record of those meetings for review by the Division.*

Sec. 13. *1. Except as otherwise provided in subsection 3, the affairs and business of a retail trust company organized as a corporation under the laws of this State must be managed or controlled by a board of directors of not less than five in number who must be selected by the stockholders at the annual meeting of stockholders in such manner as may be provided by the bylaws of the corporation.*

2. Except as otherwise provided in subsection 3, the affairs and business of a retail trust company organized as a limited-liability company under the laws of this State must be managed or controlled by no fewer than five managers selected from the members as provided in the operating agreement.

3. The Commissioner may authorize a retail trust company to be managed or controlled by no fewer than three directors or managers, as appropriate.

4. The board of directors or managers of a noncustodial trust company must be not less than three in number unless a smaller number is authorized by the Commissioner.

Sec. 14. *1. No person is eligible to serve as a director or manager of any retail trust company unless he:*

(a) Displays the competence and integrity to transact the business of the retail trust company in a manner which safeguards the interests of the general public; and

(b) Has a financial status consistent with his responsibilities to the public.

2. The Commissioner may require any or all new directors or managing directors of a retail trust company to provide such financial and biographical information and verification thereof as he deems appropriate, including the completion of any forms required to be completed in connection with the licensing of a retail trust company.

Sec. 15. *1. For the purpose of discovering violations of this title or of securing information 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 an activity for which a license is required pursuant to the provisions of this chapter; and

(c) Any person that 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 must have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. The Commissioner may require the attendance of any person and examine him under oath regarding:

(a) Any transaction or business regulated pursuant to the provisions of this chapter; or

(b) The subject matter of any audit, examination, investigation or hearing.

Sec. 16. *The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any retail trust company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the retail trust company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.*

Sec. 17. ~~*[In addition to the express powers, duties and functions given to the Commissioner by this chapter, the Commissioner has such other powers and rights as may be necessary or incident to the proper discharge of his duties.]*~~ *(Deleted by amendment.)*

Sec. 18. *1. The Commissioner may institute disciplinary action or forthwith initiate proceedings to take possession of the business and property of any retail trust company when it appears that the retail trust company:*

(a) Has violated its charter or any state or federal laws applicable to the business of a trust company.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' equity.

(e) Has refused to pay or transfer account assets to its account holders as required by the terms of the accounts' governing instruments.

(f) Has become insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to receivers, conservators, trustees or creditors without complying with NRS 669.230.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS.

(k) Has materially and willfully breached its fiduciary duties to its customers.

(l) Has failed to properly disclose all fees, interest and other charges to its customers.

(m) Has willfully engaged in material conflicts of interest regarding a customer's account.

(n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the retail trust company.

2. The Commissioner also may forthwith initiate proceedings to take possession of the business and property of any trust company when it appears that the officers of the trust company have refused to be examined upon oath regarding its affairs.

Sec. 19. *If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.*

Sec. 20. *1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.*

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as a court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business, whether such books, papers, documents and records are in the possession of the defendant, a registered agent acting on behalf of the defendant or any other person. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.

Sec. 21. *1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he shall give at least 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.*

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than $10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including his investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Division of Financial Institutions;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his license within 180 days after the date his license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 30 days without good cause therefor.

4. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 22. NRS 669.020 is hereby amended to read as follows:

669.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 669.029 to 669.070, inclusive, *and sections 2 ~~[and]~~ to 3 , inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 23. NRS 669.045 is hereby amended to read as follows:

669.045 *1.* "Fiduciary" means a trustee, executor, administrator, guardian of an estate, *personal representative,* conservator, assignee for the benefit of creditors, receiver, depositary or person that receives on deposit money or property from a public administrator under any provision of this chapter or from another fiduciary.

2. As used in this section, "administrator" includes servicers or administrators of individual retirement accounts within the meaning of section 408(a) of the Internal Revenue Code of 1986, 26 U.S.C. § 408(a), where the servicer or administrator holds itself out to the public for performance of such services and holds or maintains an ownership interest in the servicing rights of such accounts, or possesses or controls any of the assets of such accounts, including cash.

Sec. 24. NRS 669.080 is hereby amended to read as follows:

669.080 1. This chapter does not apply to a person who:

(a) Does business under the laws of this State, the United States or another state relating to banks, savings banks, savings and loan associations or thrift companies, but if the *trust company* business conducted in this State is not subject to supervision by a regulatory authority of another jurisdiction, the person must be licensed pursuant to this chapter ~~[;]~~ *before engaging in such business in this State;*

(b) Is appointed as a fiduciary pursuant to NRS 662.245;

(c) Is acting in the performance of his duties as an attorney at law;

(d) Acts as a trustee under a deed of trust;

(e) Acts as a registered agent for a domestic or foreign corporation, limited-liability company, limited partnership or limited-liability partnership;

(f) Acts as a trustee of a trust holding real property for the primary purpose of facilitating any transaction with respect to real estate if he is not regularly engaged in the business of acting as a trustee for such trusts;

(g) Engages in the business of a collection agency pursuant to chapter 649 of NRS;

(h) Engages in the business of an escrow agency, escrow agent or escrow officer pursuant to the provisions of chapter 645A or 692A of NRS;

(i) Acts as a trustee of a trust created for charitable or nonprofit purposes if he is not regularly engaged in the business of acting as trustee for such trusts;

(j) Receives money or other property as a real estate broker licensed under chapter 645 of NRS on behalf of a principal;

(k) Engages in transactions as a broker-dealer or sales representative pursuant to chapter 90 of NRS;

(l) Acts as a fiduciary under a court trust;

(m) Does business as an insurer authorized to issue policies of life insurance and annuities or endowment contracts in this State and is subject to regulation and control of the Commissioner of Insurance; ~~[or]~~

(n) Acts as a fiduciary ~~[if:~~

~~(1) The fiduciary relationship is not one of his principal occupations; or~~

~~(2) He serves as a fiduciary for a relative by blood or marriage.]~~ *as an individual* ~~[.]~~ *; or*

(o) Acts as a family trust company, unless the family trust company is licensed under this chapter. A family trust company shall be deemed not to be engaged in trust company business for the purposes of this chapter.

2. A bank, savings bank, savings and loan association or thrift company claiming an exemption from this chapter pursuant to paragraph (a) of subsection 1 must notify the Commissioner of Financial Institutions of its intention to engage in the business of a trust company in this State and present proof satisfactory to the Commissioner of Financial Institutions that its fiduciary activities in this State will be subject to regulation by another jurisdiction.

Sec. 25. NRS 669.090 is hereby amended to read as follows:

669.090 It is unlawful for any ~~[person]~~ *retail trust company* to engage in the business of a trust company without complying with the provisions of this chapter and having a license issued by the Commissioner.

Sec. 26. NRS 669.100 is hereby amended to read as follows:

669.100 *1.* No *retail* trust company may be organized or operated with a stockholders' equity of less than ~~[$300,000,]~~ *$1,000,000,* or in such greater amount as may be required by the Commissioner. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the trust company is authorized to commence business.

2. A retail trust company shall maintain at least 50 percent of its required stockholders' equity in cash unless the Commissioner approves a smaller amount. The remaining 50 percent of its required stockholders' equity may be a different form of readily marketable securities or with prior approval by the Commissioner other liquid, secure asset, bond, surety or insurance, or some combination of the foregoing.

3. Any ~~[retail]~~ grandfathered trust company other than a noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $500,000;

(2) By October 1, 2011, $750,000; and

(3) By October 1, 2012, $1,000,000; and

(b) Maintain $500,000 of such minimum capital in cash on and after October 1, 2010.

4. Any noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $350,000;

(2) By October 1, 2011, $400,000; and

(3) By October 1, 2012, $500,000; and

(b) Maintain 50 percent of such minimum capital in cash on and after October 1, 2010.

5. As used in this section, "in cash" means in depository accounts with one or more banks in this State.

Sec. 27. NRS 669.130 is hereby amended to read as follows:

669.130 A *retail* trust company shall not transact business, except business that is incidental to its organization, until it is authorized by the Commissioner to commence the business of a trust company as provided in this chapter.

Sec. 28. NRS 669.150 is hereby amended to read as follows:

669.150 1. An applicant must file an application for a license to transact trust company business with the Commissioner on forms prescribed by the Commissioner, which must contain or be accompanied by such information as the Commissioner requires.

2. A nonrefundable fee of not more than $2,000 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary. In addition, a fee of not less than $200 or more than $500, prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the application.

3. ~~[A]~~ *Except as otherwise provided in section 8 of this act, a* trust company may maintain offices in this and other states. For every branch location of a trust company organized under the laws of this State, and every branch location in this State of a foreign trust company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on such forms as he prescribes. A nonrefundable fee of not more than $500 must accompany each request. In addition, a fee of not more than $200, prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request.

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account *for Financial Institutions* created by NRS 232.545.

5. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 12 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

Sec. 29. NRS 669.160 is hereby amended to read as follows:

669.160 1. Within ~~[60]~~ *90* days after ~~*[After]*~~ the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a trust company in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Have not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(3) Have not made a false statement of material fact on the application.

(4) Have not *been an officer or member of the board of directors for an entity which* had a license ~~[that was]~~ issued pursuant to the provisions of this chapter *that was* suspended or revoked within the 10 years immediately preceding the date of the application ~~[.]~~ *, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.*

(5) Have not *been an officer or member of the board of directors for a company which* had a license as a trust company which was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application ~~[.]~~ *, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.*

(6) Have not violated any of the provisions of this chapter or any regulation adopted pursuant to the provisions of this chapter.

(b) That the financial status of the directors and officers of the corporation or the managers or members acting in a managerial capacity of the limited-liability company is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

(e) That the applicant has retained the employee required by paragraph (b) of subsection 2 of section 4 of this act.

2. Notice of the entry of an order refusing a license to a trust company must be given in writing, served personally or sent by certified mail ~~[or by telegram]~~ to the company affected. The company, upon application, is entitled to a hearing before ~~[a hearing officer appointed by the Director of the Department of Business and Industry,]~~ *the Commissioner*, but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.

3. ~~[If the hearing officer affirms the]~~ *The* order of the Commissioner ~~[refusing the license, the applicant may file a petition for]~~ *is final for the purposes of* judicial review . ~~[pursuant to NRS 233B.130.]~~

Sec. 30. NRS 669.190 is hereby amended to read as follows:

669.190 1. The initial fee to be paid for a *retail* trust company license ~~[must be in proportion to the initial stockholders' equity of the trust company as follows:~~

~~(a) A trust company with an initial stockholders' equity of not less than $300,000 but not more than $500,000 must pay a license fee of not more than $1,000.~~

~~(b) A trust company with an initial stockholders' equity of more than $500,000 but not more than $1,000,000 must pay a license fee of not more than not more than $1,500.~~

~~(c) A trust company with an initial stockholders' equity of more than $1,000,000 must pay a license fee of not more than $2,000.]~~ *must not be more than $3,000.*

2. In addition, every *retail* trust company must pay an initial license fee of not more than ~~[$200]~~ *$500* for each branch office that is authorized by the Commissioner.

3. Thereafter, every *retail* trust company must pay annually on or before April 1 of each year a license fee ~~[which must be in proportion to its existing stockholders' equity as follows:~~

~~(a) A trust company with an existing stockholders' equity of not less than $300,000 but not more than $500,000 must pay a license fee of not more than $1,000.~~

~~(b) A trust company with an existing stockholders' equity of more than $500,000 but not more than $1,000,000 must pay a license fee of not more than $1,500.~~

~~(c) A trust company with an existing stockholders' equity of more than $1,000,000 must pay a license fee of not more than $2,000.]~~ *of not more than $3,000.*

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 31. NRS 669.200 is hereby amended to read as follows:

669.200 *The Commissioner shall issue an order cancelling a retail trust company's license:*

1. If ~~[a]~~ *the* proposed *retail* trust company fails to open for business within 6 months after the date the license was issued, or within an additional 6-month extension granted by the Commissioner upon written application and for good cause shown ~~[, the Commissioner shall issue an order cancelling the trust company's license.]~~ *; or*

2. If the retail trust company fails to maintain regular business hours or otherwise conduct the business of a trust company for more than 30 days.

Sec. 32. NRS 669.210 is hereby amended to read as follows:

669.210 1. Each ~~[licensed]~~ *retail* trust company may ~~[:]~~ *, in the conduct of its trust business, within and outside this State, subject to section 8 of this act, as applicable:*

(a) Act as *indenture trustee or as* trustee under any mortgage or bond of any person or of any municipality or body politic.

(b) Accept and execute any municipal or corporate or individual trust not inconsistent with the laws of this State.

(c) Act under the order or appointment of any court as guardian, administrator, receiver or trustee.

(d) Act as executor or trustee under any will.

(e) Act as fiscal or transfer agent of any state, municipality, body politic or corporation, and in such capacity receive and disburse money and register, transfer and countersign certificates of stock, bonds and other evidences of indebtedness.

(f) Act as ~~[local or]~~ *a* registered agent of foreign corporations.

(g) Accept and execute any trust business permitted by any law.

(h) Acquire the fiduciary rights, powers, duties and liabilities of a bank, savings and loan association, thrift company, trust company or credit union licensed pursuant to titles 55 and 56 of NRS, and upon the effective date of such an acquisition, the fiduciary rights, powers, duties and liabilities of the bank, savings and loan association, thrift company, trust company or credit union vest in and must be performed by the acquiring trust company.

(i) *Act as an agent, advisory agent, assignee, attorney-in-fact, authenticating agent, bailee, bond or indenture trustee, conversion agent, curator, custodian, escrow agent, exchange agent, fiscal or paying agent, financial adviser, investment adviser, investment manager, managing agent, purchase agent, registrar, safekeeping agent, subscription agent, warrant agent or in similar capacities generally performed by corporate trustees, and in so acting, may possess, purchase, sell, invest, reinvest, safekeep or otherwise manage or administer real or personal property of other persons.*

(j) Exercise the powers of a business corporation or limited-liability company organized or qualified as a foreign corporation or limited-liability company under Nevada law and any incidental powers that are reasonably necessary to enable it to fully exercise, in accordance with commonly accepted customs and usages, a power conferred in this chapter.

(k) Do and perform all acts necessary to exercise the powers enumerated in this subsection and authorized by this chapter and any other applicable laws of this State.

2. A *retail* trust company may not engage in any banking business by accepting deposits or making loans.

Sec. 33. NRS 669.220 is hereby amended to read as follows:

669.220 1. A *retail* trust company:

(a) Shall keep all trust funds and investments separate from the assets of the *retail* trust company, and all investments made by the *retail* trust company as a fiduciary must be designated so that the trust or estate to which the investments belong may be clearly identified.

(b) When it holds trust funds awaiting investment or distribution, may deposit or leave those funds on deposit with a state or national bank or credit

union. The funds must not be deposited or left with the same corporation depositing them or leaving them on deposit, or with a corporation or association holding or owning a majority of the stock of the *retail* trust company making or leaving the deposit, unless that corporation or association first pledges, as security for the deposit, securities eligible for investment by state banks or credit unions which have a market value equal to that of the deposited funds. No security is required with respect to any portion of the deposits that is insured under the provisions of NRS 678.755 or a law of the United States.

(c) When it acts in any capacity under a court trust or private trust, unless the instrument creating the trust provides otherwise, may cause any securities *or other assets* held by it in its representative capacity to be registered *or titled* in the name of a nominee or nominees of the *retail* trust company.

(d) When acting as depositary or custodian for the personal representative of a court trust or private trust, unless the instrument creating the trust provides otherwise, may with the consent of the personal representative of the trust, cause any securities *or other assets* held by it to be registered *or titled* in the name of a nominee or nominees of the *retail* trust company.

2. A trust company is liable for any loss occasioned by the acts of its nominees with respect to securities registered under this section.

3. No corporation or the registrar or transfer agent of the corporation is liable for registering or causing to be registered on the books of the corporation any securities in the name of any nominee of a trust company or for transferring or causing to be transferred on the books of the corporation any securities registered by the corporation in the name of any nominee of a trust company when the transfer is made on the authorization of the nominee.

4. ~~[Except as otherwise provided in subsection 5, the]~~ *The* assets forming the capital of a *retail* trust company must:

(a) Be *cash,* governmental obligations or insured deposits that mature within 3 years after acquisition ~~[.]~~ *, readily marketable securities or other liquid, secure assets, bonds, sureties or insurance, or some combination of the foregoing in accordance with NRS 669.100.*

(b) Have an aggregate market value that equals or exceeds ~~[60]~~ *100* percent of the company's ~~[current]~~ *required* stockholders' equity . ~~[or 60 percent of the company's initial stockholders' equity, whichever is greater.]~~

5. A *retail* trust company may purchase or rent ~~[land and equipment for use in the daily]~~ *real or personal property useful for the conduct of the business and other* activities of the *retail* trust company.

6. A retail trust company may invest its money for its own account, other than those required or permitted to be maintained by subsection 4 or 5 or NRS 669.100, in any type or character of equity securities, debt securities or other asset, provided the investment complies with the prudent investor standards of NRS 164.700 to 164.775, inclusive.

Sec. 34. NRS 669.225 is hereby amended to read as follows:

669.225 1. In addition to the powers of investment granted to the trust company by the instrument creating the relationship of fiduciary or agent, a trust company which is acting as a fiduciary or agent may, in its discretion or at the direction of another person who is authorized to direct the investment of money held by the trust company as a fiduciary or agent, invest in the securities of an investment trust or investment company if:

(a) The investment trust or investment company is ~~[registered pursuant to]~~ *an investment company for the purposes of* the Investment Company Act of 1940, as amended, 15 U.S.C. §§ 80a-1 et seq.; ~~[and]~~

(b) The portfolio of the investment trust or investment company consists substantially of investments which are not prohibited by the instrument creating the fiduciary or agency relationship ~~[.]~~ *; and*

(c) The relationship of the investment company to the trust company is disclosed to any person who is currently receiving statements for the account, by a prospectus, a statement of account or otherwise.

2. A *retail* trust company or an affiliate of the *retail* trust company ~~[may provide]~~ *that provides* services to the investment trust or investment company, including, without limitation, acting as an ~~[investment adviser,]~~ *adviser*, custodian, transfer agent, registrar, sponsor, distributor or *shareholder serving agent* manager , ~~[and]~~ may receive reasonable compensation for the services. The manner in which the compensation is calculated must be disclosed to ~~[the]~~ *any* person who is currently receiving ~~[the benefits of the relationship of a fiduciary or agent with the trust company. The disclosure may be made]~~ *statements for the account* by a prospectus, a statement of account or otherwise.

3. A *retail* trust company may deposit money held by the *retail* trust company as a fiduciary or agent ~~[with an affiliate before investing or making other disposition of the money.]~~ *that is awaiting investment or distribution as provided in the governing instrument for the account in an affiliated bank. To the extent that the money is not insured by the Federal Deposit Insurance Corporation, the retail trust company shall set aside collateral as security, under the control of appropriate fiduciary officers and employees, with a market value that at all times equals or exceeds the amount of the uninsured fiduciary money.*

4. Notwithstanding subsections 1, 2 and 3, a retail trust company authorized to exercise trust powers in this State which is acting as a fiduciary shall not purchase for the fiduciary estate any fixed income or equity security issued by the retail trust company or an affiliate thereof other than an investment company, unless:

(a) The retail trust company is expressly authorized to do so by the terms of the instrument creating the trust, a court order, the written consent of the grantor of the trust or the written consent of every adult beneficiary of the trust who, at the time the notice is provided, receives, or is entitled to receive, income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated; or

(b) The security is fairly priced and otherwise complies with the prudent investor standards of NRS 164.700 to 164.775, inclusive, and the terms of the instrument, judgment, decree, or other document establishing the fiduciary relationship.

Sec. 35. NRS 669.295 is hereby amended to read as follows:

669.295 *1.* In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $10,000 *per violation* upon a person who:

~~[1.]~~ *(a)* Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

~~[2.]~~ *(b)* Violates any provision of this chapter or any regulation adopted pursuant thereto.

2. The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or series of actions which constitute the violations must not exceed the greater of $100,000 or 125 percent of all losses incurred by the retail trust company and its clients as the direct or indirect result of such violations.

Sec. 36. NRS 669.282 and 669.284 are hereby repealed.

Sec. 37. ~~[Notwithstanding the provisions of section 5 of this act, a family trust company may act as a fiduciary in this State until February 1, 2010, without receiving an exemption from the Commissioner of Financial Institutions pursuant to section 5 of this act.]~~ *(Deleted by amendment.)*

TEXT OF REPEALED SECTIONS

669.282 Authority of Commissioner to seize property, business and assets; duties of Commissioner upon seizure.

1. If the Commissioner ascertains by examination or otherwise that the capital or assets of a trust company are impaired or that the affairs of a trust company are in an unsafe condition which may result in danger to the public, he may immediately take possession of all the property, business and assets of the company which are located in this state and retain possession of them pending further proceedings as provided in this chapter.

2. If the directors or officers of a corporation or the managers or members acting in a managerial capacity of a limited-liability company refuse to allow the Commissioner to take possession of the property of the company, the Commissioner shall communicate that fact to the Attorney General. Upon notification from the Commissioner, the Attorney General shall immediately institute such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the company. Upon possession of the property, the Commissioner shall make or have made an inventory of the assets and known liabilities of the company.

3. The Commissioner shall file one copy of the inventory in his office and one copy in the office of the clerk of the district court of the county in which the principal office of the trust company is located and shall mail one copy to each director or officer of the corporation, or the manager or member

acting in a managerial capacity of the limited-liability company, at his last known address.

4. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.

669.284 Persons entitled to remedy conditions leading to seizure; effect of failure to remedy; receivership and liquidation of assets.

1. The directors or officers of a corporation or the managers or members acting in a managerial capacity of a limited-liability company licensed as a trust company may, within 60 days after the date the Commissioner takes possession of the property, business and assets of the corporation or limited-liability company licensed as a trust company, make good any deficit that exists or remedy the unsafe condition of the affairs of the corporation or limited-liability company licensed as a trust company.

2. At the expiration of the 60-day period set forth in subsection 1, if the deficiency in assets or capital has not been made good or the unsafe condition remedied, the Commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the company that are located in this state in the same manner as now provided by law for liquidation of a private corporation in receivership.

3. Another person may not be appointed receiver by any court unless he first gives the Commissioner ample notice of his application.

4. The inventory made by the Commissioner pursuant to NRS 669.282 and all claims filed by creditors are open at all reasonable times for inspection, and any action taken by the receiver upon any of the claims is subject to the approval of the court before which the cause is pending.

5. The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court and, upon certification of the Commissioner, must be paid out of the money in his hands as the receiver.

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 creates a definition for grandfathered trust company, which may be a noncustodial trust company and sets minimum capital requirements for such trust companies. The amendment also removes references in the bill to family trust companies and sets a maximum amount of any fines that may be imposed by the Commissioner of Financial Institutions.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 320.

Bill read second time.

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

Amendment No. 544.

"SUMMARY—Revises provisions relating to dental hygiene. (BDR 54-367)"

"AN ACT relating to dental hygiene; creating a new chapter in NRS to govern dental hygienists and the practice of dental hygiene; establishing the Nevada State Board of Dental Hygienists; revising provisions relating to dentistry and dental hygiene; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law contains provisions relating to dental hygienists and the practice of dental hygiene within chapter 631 of NRS, which relates to dentistry.

Sections 2-56 of this bill create a new chapter within NRS relating solely to dental hygienists and the practice of dental hygiene.

Sections 59-80 and 116 of this bill revise chapter 631 of NRS to remove or repeal provisions relating to dental hygienists and the practice of dental hygiene.

Sections 57, 58 and 81-115 of this bill revise various provisions of NRS to account for the removal of provisions relating to dental hygienists and the practice of dental hygiene from chapter 631 of NRS and the addition of the new chapter relating solely to dental hygienists and the practice of dental hygiene.

Section 117 of this bill provides for the transition of authority over dental hygienists and the practice of dental hygiene from chapter 631 of NRS to the new chapter created by sections 2-56 of this bill.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 56, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Accredited" means approved by the Commission on Dental Accreditation of the American Dental Association or its successor organization.*

Sec. 4. *"Board" means the Nevada State Board of Dental Hygienists.*

Sec. 5. *"Dental hygiene" means the performance of educational, preventive and therapeutic periodontal treatment, including scaling, curettage and planing of roots and any related and required intraoral or extraoral procedures that a dentist is authorized to assign to a dental hygienist.*

Sec. 6. *"Dental hygienist" means any person who practices the profession of dental hygiene and is licensed pursuant to this chapter.*

Sec. 7. *"License" means a certificate issued by the Board to any applicant upon completion of requirements for admission to practice dental hygiene.*

Sec. 8. *"Malpractice" means failure on the part of a dental hygienist to exercise the degree of care, diligence and skill ordinarily exercised by dental hygienists in good standing in the community in which he practices. As used in this section, "community" means the entire area customarily served by dental hygienists among whom a patient may reasonably choose, not merely the particular area inhabited by the patients of that individual dental hygienist or the particular city or place where he has his office.*

Sec. 9. *"Renewal certificate" means the certificate of renewal of a license issued by the Board.*

Sec. 10. *"Supervision by a dentist" means that a dentist is:*

1. Physically present in the office where the procedures to be supervised are being performed, while these procedures are being performed; and

2. Capable of responding immediately if any emergency should arise.

Sec. 11. *The Nevada State Board of Dental Hygienists, consisting of ~~[11]~~ 7 members appointed by the Governor, is hereby created.*

Sec. 12. *1. The Governor shall appoint to the Board:*

(a) ~~[Nine]~~ Five members who:

(1) Are graduates of accredited schools or colleges of dental hygiene;

(2) Are residents of Nevada; and

(3) Have been actively engaged in the practice of dental hygiene in Nevada for a period of at least 5 years before their appointment to the Board.

(b) One member who has resided in Nevada for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(c) One member who is a representative of the general public. This member must not be:

(1) A dentist or a dental hygienist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a dentist or a dental hygienist.

2. If a member is not licensed under the provisions of this chapter, the member shall not participate in grading any examination required by the Board.

Sec. 13. *The ~~[eleven]~~ five members of the Board who are dental hygienists must be appointed from areas of the State as follows:*

1. ~~[Four]~~ Two of those members must be from Carson City, Douglas County or Washoe County.

2. ~~[Five]~~ Two of those members must be from Clark County.

3. ~~[Two]~~ One of those members may be from any county of the State.

Sec. 14. *The Governor shall remove from office any member of the Board for:*

1. Continued neglect of duty.

2. Incompetency.

3. Dishonorable or unprofessional conduct as defined in this chapter.

Sec. 15. *1. At the first regular meeting of each year, the Board shall elect from its membership one of its members as President and one of its members as Secretary-Treasurer, each of whom shall hold office for 1 year and until his successor is elected and qualified.*

2. The Board shall define the duties of the President, the Secretary-Treasurer and the Executive Director.

3. The Executive Director shall receive such compensation as determined by the Board, and the Board shall fix the amount of the bond to be furnished by the Secretary-Treasurer and the Executive Director.

Sec. 16. *1. The Board shall meet whenever necessary to examine applicants. The dates of the examinations must be fixed by the Board. The Board may conduct examinations outside this State, and for this purpose may use the facilities of dental colleges.*

2. The Board may also meet at such other times and places and for such other purposes as it may deem proper.

3. A quorum consists of ~~[seven]~~ five members ~~[who are dental hygienists.]~~ of the Board.

Sec. 17. *The liability of any person retained as an independent contractor by the Board to judge the qualifications of an applicant for licensure by the Board is limited to the same extent as is provided in NRS 41.035 for a member of the Board.*

Sec. 18. *1. Each member of the Board is entitled to receive:*

(a) A salary of not more than $150 per day as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. The Board shall deposit in banks, credit unions or savings and loan associations in this State all fees which it receives.

4. All expenses of the Board must be paid from the fees received by the Board, and no part thereof may be paid from the State General Fund.

Sec. 19. *In addition to the powers and duties provided in this chapter , the Board shall:*

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.

2. Appoint such committees, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry

out the provisions of this chapter, the expense to be paid as provided in this chapter.

3. Fix the time and place for and conduct examinations for the granting of licenses to practice dental hygiene.

4. Examine applicants for licenses to practice dental hygiene.

5. Collect and apply fees as provided in this chapter.

6. Keep a register of all dental hygienists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.

7. Have and use a common seal.

8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in section 51 of this act, the records must be open to public inspection.

9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

10. Have discretion to examine work authorizations in dental offices or dental laboratories.

Sec. 20. *The Board shall operate on the basis of a fiscal year commencing on July 1 and terminating on June 30.*

Sec. 21. ~~[*1. The Committee on Dental Hygiene is hereby created.*~~

~~*2. The Committee consists of:*~~

~~*(a) The members of the Board who are dental hygienists; and*~~

~~*(b) One dentist who is a member of the Board of Dental Examiners of Nevada and who has supervised a dental hygienist for at least 3 years immediately preceding his appointment to the Committee by the Board of Dental Examiners of Nevada.*~~

~~*3. The Committee:*~~

~~*(a) May accept recommendations from dental hygienists, dentists and the general public and may meet to review such recommendations.*~~

~~*(b) May make recommendations to the Board concerning:*~~

~~*(1) The practice of dental hygiene; and*~~

~~*(2) The licensing of dental hygienists, including, without limitation, requirements relating to the education, examination and discipline of dental hygienists.*~~

~~*(c) Shall carry out any duties the Board may assign to the Committee.]*~~ *(Deleted by amendment.)*

Sec. 22. *1. Every applicant for a license to practice dental hygiene must:*

(a) File an application with the Board at least 45 days before:

(1) The date on which the examination will be given; or

(2) If an examination is not required for the issuance of a license, the date on which the Board is scheduled to take action on the application.

(b) Accompany the application with a recent photograph of himself together with the required fee and such other documentation as the Board may require by regulation.

(c) Submit with the application a complete set of 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. An application must include all information required to complete the application.

Sec. 23. *1. In addition to any other requirements set forth in this chapter:*

(a) An applicant for the issuance of a license to practice dental hygiene 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 dental hygiene 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 dental hygiene 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. 24. *1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice dental hygiene 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 dental hygiene 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. 25. *As soon as possible after the examination has been given, the Board, under rules and regulations adopted by it, shall determine the qualifications of the applicant and shall issue to each person found by the Board to have the qualifications therefor a license which will entitle the person to practice dental hygiene subject to the provisions of this chapter.*

Sec. 26. *1. The Board shall, without a clinical examination required by section 30 of this act, issue a limited license to practice dental hygiene to a person who:*

(a) Is qualified for a license to practice dental hygiene in this State;

(b) Pays the required application fee;

(c) Has entered into a contract with the Nevada System of Higher Education to provide services as an instructor of dental hygiene at an educational facility of the Nevada System of Higher Education;

(d) Satisfies the requirements of section 29 of this act; and

(e) Satisfies at least one of the following requirements:

(1) Has a license to practice dental hygiene issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(2) Presents to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the person has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board; or

(3) Has the educational facility where the person will provide services as an instructor of dental hygiene submit to the Board written confirmation that the person has been appointed to a position in the program and is a citizen of the United States or is lawfully entitled to remain and work in the United States. If a person qualifies for a limited license pursuant to this

subparagraph, the limited license remains valid only while the person is actively providing services as an instructor of dental hygiene, is lawfully entitled to remain and work in the United States and is in compliance with all other requirements for the limited license.

2. The Board shall not issue a limited license to a person:

(a) Who has been issued a license to practice dental hygiene if:

(1) The person is involved in a disciplinary action concerning the license; or

(2) The license has been revoked or suspended; or

(b) Who has been refused a license to practice dental hygiene,

➥ in this State, another state or territory of the United States, or the District of Columbia.

3. A person to whom a limited license is issued pursuant to subsection 1:

(a) May practice dental hygiene in this State only:

(1) At the educational facility where he is employed; and

(2) In accordance with the contract required by paragraph (c) of subsection 1.

(b) Shall not, for the duration of the limited license, engage in the private practice of dental hygiene in this State or accept compensation for the practice of dental hygiene except such compensation as may be paid to him by the Nevada System of Higher Education for services provided as an instructor of dental hygiene.

4. A limited license expires 1 year after its date of issuance and may be renewed on or before the date of its expiration, unless the holder no longer satisfies the requirements for the limited license. The holder of a limited license may, upon compliance with the applicable requirements set forth in section 33 of this act and the completion of a review conducted at the discretion of the Board, be granted a renewal certificate that authorizes the continuation of practice pursuant to the limited license for 1 year.

5. Within 7 days after the termination of his contract required by paragraph (c) of subsection 1, the holder of a limited license shall notify the Board of the termination, in writing, and surrender the limited license to the Board.

6. The Board may revoke a limited license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.

Sec. 27. *1. The Board shall, without a clinical examination required by section 30 of this act, issue a restricted geographical license to practice dental hygiene to a person if he meets the requirements of subsection 2 and:*

(a) A board of county commissioners submits a request that the Nevada State Board of Dental Hygienists waive the requirements of section 30 of this act for any applicant intending to practice dental hygiene in a rural area of a county in which dental hygiene needs are underserved as that term is defined by the officer of rural health of the University of Nevada School of Medicine;

(b) Two or more boards of county commissioners submit a joint request that the Nevada State Board of Dental Hygienists waive the requirements of section 30 of this act for any applicant intending to practice dental hygiene in one or more rural areas within those counties in which dental hygiene needs are underserved as that term is defined by the officer of rural health of the University of Nevada School of Medicine; or

(c) The director of a federally qualified health center or a nonprofit clinic submits a request that the Board waive the requirements of section 30 of this act for any applicant who has entered into a contract with a federally qualified health center or nonprofit clinic which treats underserved populations in Washoe County or Clark County.

2. A person may apply for a restricted geographical license if he:

(a) Has a license to practice dental hygiene issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(b) Is otherwise qualified for a license to practice dental hygiene in this State;

(c) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to section 30 of this act;

(d) Submits all information required to complete an application for a license; and

(e) Satisfies the requirements of section 29 of this act.

3. The Board shall not issue a restricted geographical license to a person:

(a) Whose license to practice dental hygiene has been revoked or suspended;

(b) Who has been refused a license to practice dental hygiene; or

(c) Who is involved in or has pending a disciplinary action concerning his license to practice dental hygiene,

➥ in this State, another state or territory of the United States, or the District of Columbia.

4. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

5. A person to whom a restricted geographical license is issued pursuant to this section:

(a) May practice dental hygiene only in the county or counties which requested the restricted geographical licensure pursuant to paragraph (a) or (b) of subsection 1.

(b) Shall not, for the duration of the restricted geographical license, engage in the private practice of dental hygiene in this State or accept compensation for the practice of dental hygiene except such compensation as may be paid to him by a federally qualified health center or nonprofit clinic pursuant to paragraph (c) of subsection 1.

6. Within 7 days after the termination of his contract pursuant to paragraph (c) of subsection 1, the holder of a restricted geographical license

shall notify the Board of the termination, in writing, and surrender the restricted geographical license.

7. A person to whom a restricted geographical license was issued pursuant to this section may petition the Board for an unrestricted license without a clinical examination required by section 30 of this act if the person:

(a) Has not had his license to practice dental hygiene revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(b) Has not been refused a license to practice dental hygiene in this State, another state or territory of the United States, or the District of Columbia;

(c) Is not involved in or does not have pending a disciplinary action concerning his license to practice dental hygiene in this State, another state or territory of the United States, or the District of Columbia; and

(d) Has:

(1) Actively practiced dental hygiene for 3 years at a minimum of 30 hours per week in the county or counties which requested the restricted geographical licensure pursuant to paragraph (a) or (b) of subsection 1; or

(2) Been under contract with a federally qualified health center or nonprofit clinic for a minimum of 3 years.

8. The Board may revoke a restricted geographical license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of sections 2 to 56, inclusive, of this act or the regulations of the Board.

Sec. 28. *1. The Board shall, upon application by a dental hygienist who is licensed pursuant to this chapter and has such qualifications as the Board specifies by regulation, issue a special endorsement of his license allowing him to practice public health dental hygiene pursuant to subsection 2.*

2. The State Dental Health Officer may authorize a person who holds a special endorsement issued pursuant to subsection 1 to provide or cause to be provided such services for the promotion of public health dental hygiene as the State Dental Health Officer deems appropriate. Such services:

(a) May be provided at schools, community centers, hospitals, nursing homes and such other locations as the State Dental Health Officer deems appropriate.

(b) May not be provided at a dental office that is not operated by a public or nonprofit entity.

Sec. 29. *1. Any person is eligible to apply for a license to practice dental hygiene in this State who:*

(a) Is of good moral character;

(b) Is over 18 years of age;

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States; and

(d) Is a graduate of a program of dental hygiene from an institution which is accredited by a regional educational accrediting organization that is recognized by the United States Department of Education. The program of dental hygiene must:

(1) Be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor specialty accrediting organization; and

(2) Include a curriculum of not less than 2 years of academic instruction in dental hygiene or its academic equivalent.

2. To determine whether a person has good moral character, the Board may consider whether his license to practice dental hygiene in another state has been suspended or revoked or whether he is currently involved in any disciplinary action concerning his license in that state.

Sec. 30. *1. Any person desiring to obtain a license to practice dental hygiene, after having complied with the regulations of the Board to determine eligibility:*

(a) Except as otherwise provided in NRS 622.090, must pass a written examination given by the Board upon such subjects as the Board deems necessary for the practice of dental hygiene or must present a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully complete a clinical examination in dental hygiene given by the Board which examines the applicant's practical knowledge of dental hygiene and which includes, but is not limited to, demonstrations in the removal of deposits from, and the polishing of, the exposed surface of the teeth; or

(2) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board.

2. The clinical examination given by the Board must include components that are:

(a) Written or oral, or a combination of both; and

(b) Practical, as in the opinion of the Board is necessary to test the qualifications of the applicant.

3. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

4. All persons who have satisfied the requirements for licensure as a dental hygienist must be registered as licensed dental hygienists on the board register, as provided in this chapter and are entitled to receive a certificate of registration, signed by all members of the Board.

Sec. 31. *1. Except as otherwise provided in sections 26 and 28 of this act, the holder of a license or renewal certificate to practice dental hygiene may practice dental hygiene in this State in the following places:*

(a) In the office of any licensed dentist.

(b) In a clinic or in clinics in the public schools of this State as an employee of the Health Division of the Department of Health and Human Services.

(c) In a clinic or in clinics in a state institution as an employee of the institution.

(d) In a clinic established by a hospital approved by the Board as an employee of the hospital where service is rendered only to patients of the hospital, and upon the authorization of a member of the dental staff.

(e) In an accredited school of dental hygiene.

(f) In other places if specified in a regulation adopted by the Board.

2. A dental hygienist may perform only the services which are authorized by a dentist licensed in the State of Nevada, unless otherwise provided in a regulation adopted by the Board.

3. Except as otherwise provided in section 28 of this act or specifically authorized by a regulation adopted by the Board, a dental hygienist shall not provide services to a person unless that person is a patient of the dentist who authorized the performance of those services.

4. A dental hygienist may, pursuant to the provisions of subsection 3 and regulations adopted by the Board, administer local anesthesia or nitrous oxide in a health care facility, as defined in NRS 449.800, if the health care facility has licensed medical personnel and necessary emergency supplies and equipment available when the local anesthesia or nitrous oxide is administered.

5. A dental hygienist shall not perform diagnosis or treatment planning unless otherwise provided in regulations adopted by the Board.

Sec. 32. *The Board shall adopt rules or regulations:*

1. Specifying the intraoral tasks that may be performed by a dental hygienist engaged in school health activities or employed by a public health agency.

2. Governing the practice of dental hygienists in full-time employment with the State of Nevada.

Sec. 33. *1. A license issued pursuant to section 26 of this act must be renewed annually. All other licenses must be renewed biennially.*

2. Except as otherwise provided in section 26 of this act:

(a) Each holder of a license to practice dental hygiene must, upon:

(1) Payment of the required fee;

(2) Submission of proof of completion of the required continuing education; and

(3) Submission of all information required to complete the renewal,

➥ be granted a renewal certificate which will authorize continuation of the practice for 2 years.

(b) A licensee must comply with the provisions of this subsection and subsection 1 on or before June 30. Failure to comply with those provisions by June 30 every 2 years automatically suspends the license, and it may be reinstated only upon payment of the fee for reinstatement and compliance with the requirements of this subsection.

3. If a license suspended pursuant to this section is not reinstated within 12 months after suspension, it is automatically revoked.

Sec. 34. *1. The license of a person who does not actively practice in this State for 1 year automatically reverts to inactive status at the time the license renewal fee is next payable. If a person whose license has reverted to inactive status:*

(a) Continues to practice actively outside this State, his license may be reinstated to active status by the Secretary-Treasurer if he pays the required reinstatement fee and complies with the conditions prescribed by the regulations of the Board.

(b) Does not continue to practice, his license may be reinstated to active status only upon the motion of the Board, submission of the required reinstatement fee and proof of continuing education, and compliance with the conditions prescribed by the regulations of the Board.

2. A licensee who has a disability and cannot practice, or who is retired must be issued a license which reflects that status when the fee to renew his license is next payable. His license may be reinstated to active status only upon the motion of the Board, submission of the required reinstatement fee and proof of continuing education, and compliance with the conditions prescribed by the regulations of the Board.

Sec. 35. *1. Any person who has obtained from the Board a license certificate to practice dental hygiene in this State, and who fails to obtain a renewal certificate, must, before resuming practice, make application to the Secretary-Treasurer, under such rules as the Board may prescribe, for the restoration of the license to practice.*

2. Upon application being made, the Secretary-Treasurer shall determine whether the applicant possesses the qualifications prescribed for the granting of a license to practice, and whether the applicant continues to possess a good moral character and is not otherwise disqualified to practice in this State. If the Secretary-Treasurer so determines, he shall thereupon issue the license, and thereafter the person may make application annually for a renewal certificate, as provided in this chapter.

Sec. 36. *1. The Board shall adopt regulations concerning continuing education in dental hygiene. The regulations must include:*

(a) The number of hours of credit required annually;

(b) The criteria used to accredit each course;

(c) The requirements for submission of proof of attendance at courses; and

(d) A provision requiring the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act

of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

(2) Personal protective equipment required for acts of terrorism;

(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

➥ *The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.*

2. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.

(b) "Biological agent" has the meaning ascribed to it in NRS 202.442.

(c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.

(d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.

(e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 37. *A holder of an inactive license, or the holder of a license who is retired or has a disability, is exempt from the requirement of continuing education. If the holder of such a license applies to the Board to reactivate it, he must submit proof of continuing education for the year in which the license is restored to active status.*

Sec. 38. *1. The Board shall by regulation establish fees for the performance of the duties imposed upon it by this chapter, which must not exceed the following amounts:*

Application fee for an initial license to practice dental hygiene $750

Application fee for a limited license or restricted license to practice dental hygiene 300

Biennial license renewal fee for a general license, temporary license or restricted geographical license to practice dental hygiene 600

Annual license renewal fee for a limited license to practice dental hygiene 300

Biennial license renewal fee for an inactive dental hygienist 200

Biennial license renewal fee for a dental hygienist who is retired or has a disability 100

Reinstatement fee for a suspended license to practice dental hygiene 500

Reinstatement fee for a revoked license to practice dental hygiene 500

Reinstatement fee to return a dental hygienist who is inactive, retired or has a disability to active status 500

Fee for the certification of a license 50

2. Except as otherwise provided in this subsection, the Board shall charge a fee to review a course of continuing education for accreditation. The fee must not exceed $150 per credit hour of the proposed course. The Board shall not charge a nonprofit organization or an agency of the State or of a political subdivision of the State a fee to review a course of continuing education.

3. All fees prescribed in this section are payable in advance and must not be refunded.

Sec. 39. *The following acts, among others, constitute unprofessional conduct:*

1. Except as otherwise provided in section 28 of this act, giving a public demonstration of methods of practice any place other than the office where the licensee is known to be regularly engaged in this practice;

2. Procuring, inducing, aiding or abetting a person not licensed or registered as a dentist or dental hygienist to engage in the practice of dentistry or dental hygiene, but a patient shall not be deemed to be an accomplice, employer, procurer, inducer, aider or abettor;

3. Practicing in any place not authorized pursuant to this chapter; or

4. Practicing while his license is suspended or without a renewal certificate.

Sec. 40. *The following acts, among others, constitute unprofessional conduct:*

1. Dividing fees or agreeing to divide fees received for services with any person for bringing or referring a patient, without the knowledge of the patient or his legal representative.

2. Associating with or lending his name to any person engaged in the illegal practice of dentistry or associating with any person, firm or corporation holding himself or itself out in any manner contrary to the provisions of this chapter or chapter 631 of NRS.

3. Using the name "clinic," "institute," "referral services" or other title or designation that may suggest a public or semipublic activity.

Sec. 41. *The following acts, among others, constitute unprofessional conduct:*

1. Malpractice;

2. Suspension or revocation of his license to practice dental hygiene, the imposition of a fine or other disciplinary action by any agency of another state authorized to regulate the practice of dentistry or dental hygiene in that state;

3. More than one act by the dental hygienist constituting substandard care in the practice of dental hygiene;

4. Chronic or persistent inebriety or addiction to a controlled substance, to such an extent as to render him unsafe or unreliable as a practitioner, or such gross immorality as tends to bring reproach upon the dental hygiene profession; or

5. Conviction of a felony or misdemeanor involving moral turpitude or which relates to the practice of dental hygiene in this State, or conviction of any criminal violation of this chapter.

Sec. 42. *The following acts, among others, constitute unprofessional conduct:*

1. Publishing or circulating, directly or indirectly, any fraudulent, false or misleading statement concerning the skill or method of practice of any dentist or dental hygienist;

2. Using advertising which is false or misleading;

3. Claiming or inferring professional superiority over neighboring practitioners;

4. Using fraud or misrepresentation to secure a license;

5. Practicing under a name, other than a lawfully assumed or fictitious name, that is false or misleading; or

6. Submitting a false or fraudulent claim for payment to an insurer for dental hygiene services rendered.

Sec. 43. *The following acts, among others, constitute unprofessional conduct:*

1. Willful or repeated violations of the provisions of this chapter;

2. Willful or repeated violations of the regulations of the State Board of Health, the State Board of Pharmacy or the Nevada State Board of Dental Hygienists;

3. Failure to pay the fees for a license; or

4. Failure to make the health care records of a patient available for inspection and copying as provided in NRS 629.061.

Sec. 44. *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 dental hygiene, 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 dental hygiene that has been suspended by a district court pursuant to NRS 425.540 if:

(a) 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; and

(b) The person whose license was suspended pays the fee imposed pursuant to section 38 of this act for the reinstatement of a suspended license.

Sec. 45. *The acts described in sections 39 to 43, inclusive, of this act must not be construed as a complete list of dishonorable or unprofessional conduct, or as authorizing or permitting the performance of other and similar acts, or as limiting or restricting the Board from holding that other or similar acts constitute unprofessional or dishonorable conduct.*

Sec. 46. *1. Except as otherwise provided in section 26 of this act, the Board may:*

(a) Refuse to issue a license to any person;

(b) Revoke or suspend the license or renewal certificate issued by it to any person;

(c) Fine a person it has licensed;

(d) Place a person on probation for a specified period on any conditions the Board may order;

(e) Issue a public reprimand to a person;

(f) Require a person to participate in a program to correct alcohol or drug abuse or any other impairment;

(g) Require that a person's practice be supervised;

(h) Require a person to perform community service without compensation;

(i) Require a person to take a physical or mental examination or an examination of his competence;

(j) Require a person to fulfill certain training or educational requirements;

(k) Require a person to reimburse a patient; or

(l) Any combination thereof,

➥ upon submission of substantial evidence to the Board that the person has engaged in any of the activities listed in subsection 2.

2. The following activities may be punished as provided in subsection 1:

(a) Engaging in the illegal practice of dental hygiene;

(b) Engaging in unprofessional conduct; or

(c) Violating any regulations adopted by the Board or the provisions of this chapter.

3. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for

recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

5. The Board shall not administer a private reprimand.

6. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 47. *1. Any disciplinary action taken by a hearing officer or panel pursuant to section 46 of this act is subject to the same procedural requirements which apply to disciplinary actions taken by the Board, and the officer or panel has those powers and duties given to the Board in relation thereto.*

2. Any decision of the hearing officer or panel relating to the imposition of any disciplinary action pursuant to this chapter is a final decision in a contested case.

Sec. 48. *1. The Board may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for refusal, suspension or revocation of a license or certificate under this chapter, investigate the actions of any person holding a certificate.*

2. The Board shall, before refusing to issue, or before suspending or revoking any certificate, at least 10 days before the date set for the hearing, notify in writing the applicant or the holder of the certificate of any charges made. The notice may be served by delivery of it personally to the accused person or by mailing it by registered or certified mail to the place of business last specified by the accused person, as registered with the Board.

3. At the time and place fixed in the notice, the Board shall proceed to hear the charges. If the Board receives a report pursuant to subsection 5 of NRS 228.420, a hearing must be held within 30 days after receiving the report.

4. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Executive Director of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

5. The Board may obtain a search warrant from a magistrate upon a showing that the warrant is needed for an investigation or hearing being conducted by the Board and that reasonable cause exists to issue the warrant.

6. If the Board is not sitting at the time and place fixed in the notice, or at the time and place to which the hearing has been continued, the Board shall continue the hearing for a period not to exceed 30 days.

Sec. 49. *1. The Board may appoint one of its members and any of its employees, investigators or other agents to conduct an investigation and informal hearing concerning any practice by a person constituting a violation of the provisions of this chapter or the regulations of the Board.*

2. The investigator designated by the Board to conduct a hearing shall notify the person being investigated at least 10 days before the date set for the hearing. The notice must describe the reasons for the investigation and must be served personally on the person being investigated or by mailing it by registered or certified mail to his last known address.

3. If, after the hearing, the investigator determines that the Board should take further action concerning the matter, he shall prepare written findings of fact and conclusions and submit them to the Board. A copy of his report must be sent to the person being investigated.

4. If the Board, after receiving the report of its investigator pursuant to this section, holds its own hearing on the matter pursuant to section 48 of this act, it may consider the investigator's report but is not bound by his findings or conclusions. The investigator shall not participate in the hearing conducted by the Board.

5. If the person who was investigated agrees in writing to the findings and conclusions of the investigator, the Board may adopt that report as its final order and take such action as is necessary without conducting its own hearing on the matter.

Sec. 50. *1. The district court for the county in which any investigation or hearing is being conducted by the Board may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by or on behalf of the Board.*

2. If any witness refuses to attend or testify or produce any papers required by a subpoena, the Board may so report to the district court for the county in which the investigation or hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter;

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Board in the investigation or hearing named in the subpoena, or has refused to answer questions propounded to him in the course of the investigation or hearing;

(d) That the subpoena identified specifically any documents or the subject of any testimony required;

(e) That the documents or testimony were relevant to the allegations being investigated or heard; and

(f) That no reasonable cause exists for the failure or refusal to comply with the subpoena,

➥ and requesting an order of the court compelling the witness to attend and testify or produce the books or papers before the Board.

3. The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, not more than 10 days after the service of the order, and

show cause why he has not attended or testified or produced the books or papers before the Board. A certified copy of the order must be served upon the witness. If it appears to the court that the subpoena was regularly issued by or on behalf of the Board and there is no reasonable cause for the refusal or failure to comply, the court shall thereupon enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness must be dealt with as if in contempt of court.

4. The court may consider, in determining whether reasonable cause existed for the witness's refusal or failure to comply with the subpoena, such factors as:

(a) The burden or cost of compliance, financial or otherwise, to the witness;

(b) The time allowed for compliance;

(c) The extent of the information requested in relation to the nature of the underlying charge; and

(d) The extent of the statistical information necessary to investigate the charge adequately.

Sec. 51. *1. Except as otherwise provided in this section and NRS 239.0115, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.*

2. 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.

3. The Board may provide any record or information described in subsection 1 to any other licensing board or agency or any agency which is investigating a person licensed pursuant to this chapter, including a law enforcement agency.

Sec. 52. *1. Any person who furnishes information to the Board concerning a licensee or an applicant for licensure, in good faith and without malicious intent, is immune from any civil action for furnishing that information.*

2. The Board, any member, employee or committee of the Board, counsel, investigator, expert, hearing officer, licensee or other person who assists the Board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning licensure or reissuance of a license or a criminal prosecution is immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in response to information acquired by the Board.

(b) Disseminating information concerning a licensee or an applicant for licensure to any member of the public, other licensing board, national association of registered boards, an agency of the Federal Government or of the State, the Attorney General or any law enforcement agency.

3. A defendant who is the prevailing party in a civil action brought pursuant to subsection 2 may recover the attorney's fees and costs incurred in defending the action.

Sec. 53. *All licenses and renewal certificates to practice dental hygiene heretofore issued by the Board of Dental Examiners of Nevada and in force on March 20, 1951, if any, shall remain in force subject to the provisions of this chapter and shall entitle the holders to practice their profession as therein designated.*

Sec. 54. *Except as otherwise provided in section 32 of this act, this chapter does not apply to a dental hygienist of the United States Army, Navy, Air Force, Public Health Service, Coast Guard or Department of Veterans Affairs in the discharge of his official duty.*

Sec. 55. *A person is guilty of the illegal practice of dental hygiene who:*

1. Sells or barters, or offers to sell or barter any certificate or transcript made or purporting to be made pursuant to the laws regulating the licensing and registration of dental hygienists;

2. Purchases or procures by barter any such certificate or transcript, with the intent that it be used as evidence of the holder's qualifications to practice dental hygiene, or in fraud of the laws regulating that practice;

3. With fraudulent intent, alters in a material regard any such certificate or transcript;

4. Uses or attempts to use any certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dental hygiene, or in order to procure registration as a dental hygienist;

5. Appends the letters "R.D.H." to his name, not having conferred upon him, by diploma from an accredited dental or dental hygiene college or school legally empowered to confer the title, the right to assume the title; or

6. Assumes any title or appends any letters to his name with the intent to represent falsely that he has received a dental hygiene degree or license;

7. Willfully makes, as an applicant for examination, license or registration under this chapter, a false statement in a material regard in an affidavit required by this chapter;

8. Except as otherwise provided in NRS 629.091, practices dental hygiene in this State without a license; or

9. Aids or abets another in violating any of the provisions of this chapter.

Sec. 56. *1. A person who practices or offers to practice dental hygiene in this State without a license, or who, having a license, practices dental hygiene in a manner or place not permitted by the provisions of this chapter:*

(a) If it is his first or second offense, is guilty of a gross misdemeanor.

(b) If it is his third or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. The Board may assign a person described in subsection 1 specific duties as a condition of renewing his license.

3. If a person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense under this chapter, the district court of any county, on application of the Board, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this subsection are governed by Rule 65 of the Nevada Rules of Civil Procedure, except that no bond or undertaking is required in any action commenced by the Board.

Sec. 57. NRS 629.095 is hereby amended to read as follows:

629.095 1. Except as otherwise provided in subsection 2, the Commissioner of Insurance shall develop, prescribe for use and make available a single, standardized form for use by insurers, carriers, societies, corporations, health maintenance organizations and managed care organizations in obtaining any information related to the credentials of a provider of health care.

2. The provisions of subsection 1 do not prohibit the Commissioner of Insurance from developing, prescribing for use and making available:

(a) Appropriate variations of the form described in that subsection for use in different geographical regions of this State.

(b) Addenda or supplements to the form described in that subsection to address, until such time as a new form may be developed, prescribed for use and made available, any requirements newly imposed by the Federal Government, the State or one of its agencies, or a body that accredits hospitals, medical facilities or health care plans.

3. With respect to the form described in subsection 1, the Commissioner of Insurance shall:

(a) Hold public hearings to seek input regarding the development of the form;

(b) Develop the form in consideration of the input received pursuant to paragraph (a);

(c) Ensure that the form is developed in such a manner as to accommodate and reflect the different types of credentials applicable to different classes of providers of health care;

(d) Ensure that the form is developed in such a manner as to reflect standards of accreditation adopted by national organizations which accredit hospitals, medical facilities and health care plans; and

(e) Ensure that the form is developed to be used efficiently and is developed to be neither unduly long nor unduly voluminous.

4. As used in this section:

(a) "Carrier" has the meaning ascribed to it in NRS 689C.025.

(b) "Corporation" means a corporation operating pursuant to the provisions of chapter 695B of NRS.

(c) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(d) "Insurer" means:

(1) An insurer that issues policies of individual health insurance in accordance with chapter 689A of NRS; and

(2) An insurer that issues policies of group health insurance in accordance with chapter 689B of NRS.

(e) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

(f) "Provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS [.] *or sections 2 to 56, inclusive, of this act.*

(g) "Society" has the meaning ascribed to it in NRS 695A.044.

Sec. 58. NRS 629.097 is hereby amended to read as follows:

629.097 1. 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. To the extent practicable, such an applicable professional association shall provide nominees who represent the geographic diversity of this State.

3. The Governor may appoint any qualified person to a board, without regard to whether the person is nominated pursuant to this section.

4. 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 ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 59. NRS 631.040 is hereby amended to read as follows:

631.040 "Dental hygienist" means any person who practices the profession of dental hygiene and is licensed pursuant to ~~[this chapter.]~~ *the provisions of sections 2 to 56, inclusive, of this act.*

Sec. 60. NRS 631.130 is hereby amended to read as follows:

631.130 1. The Governor shall appoint:

(a) ~~[Six]~~ *Nine* members who are graduates of accredited dental schools or colleges, are residents of Nevada and have ethically engaged in the practice of dentistry in Nevada for a period of at least 5 years.

(b) One member who has resided in Nevada for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(c) ~~[Three members who:~~

~~(1) Are graduates of accredited schools or colleges of dental hygiene;~~

~~(2) Are residents of Nevada; and~~

~~(3) Have been actively engaged in the practice of dental hygiene in Nevada for a period of at least 5 years before their appointment to the Board.~~

~~(d)]~~ One member who is a representative of the general public. This member must not be:

(1) A dentist or a dental hygienist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a dentist or a dental hygienist.

2. ~~[The members who are dental hygienists may vote on all matters but may not participate in grading any clinical examinations required by NRS 631.240 for the licensing of dentists.~~

~~3.]~~ If a member is not licensed under the provisions of this chapter, the member shall not participate in grading any examination required by the Board.

Sec. 61. NRS 631.140 is hereby amended to read as follows:

631.140 ~~[1.]~~ The ~~[six]~~ *eleven* members of the Board ~~[who are dentists, the member of the Board who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care, and the member of the Board who is a representative of the general public]~~ must be appointed from areas of the State as follows:

~~[(a) Three]~~ *1. Four* of those members must be from Carson City, Douglas County or Washoe County.

~~[(b) Four]~~ *2. Five* of those members must be from Clark County.

~~[(c) One]~~ *3. Two* of those members may be from any county of the State.

~~[2. The three members of the Board who are dental hygienists must be appointed from areas of the State as follows:~~

~~(a) One of those members must be from Carson City, Douglas County or Washoe County.~~

~~(b) One of those members must be from Clark County.~~

~~(c) One of those members may be from any county of the State.]~~

Sec. 62. NRS 631.170 is hereby amended to read as follows:

631.170 1. The Board shall meet whenever necessary to examine applicants. The dates of the examinations must be fixed by the Board. The Board may conduct examinations outside this State, and for this purpose may use the facilities of dental colleges.

2. The Board may also meet at such other times and places and for such other purposes as it may deem proper.

3. A quorum consists of ~~[five]~~ *seven* members who are dentists . ~~[and two members who are dental hygienists.]~~

Sec. 63. NRS 631.190 is hereby amended to read as follows:

631.190 In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.

2. Appoint such committees, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter.

3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry . ~~[and dental hygiene.]~~

4. Examine applicants for licenses to practice dentistry . ~~[and dental hygiene.]~~

5. Collect and apply fees as provided in this chapter.

6. Keep a register of all dentists ~~[and dental hygienists]~~ licensed in this State, together with their addresses, license numbers and renewal certificate numbers.

7. Have and use a common seal.

8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in NRS 631.368, the records must be open to public inspection.

9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

10. Have discretion to examine work authorizations in dental offices or dental laboratories.

Sec. 64. NRS 631.220 is hereby amended to read as follows:

631.220 1. Every applicant for a license to practice ~~[dental hygiene or]~~ dentistry ~~[,]~~ or any of its special branches ~~[,]~~ must:

(a) File an application with the Board at least 45 days before:

(1) The date on which the examination will be given; or

(2) If an examination is not required for the issuance of a license, the date on which the Board is scheduled to take action on the application.

(b) Accompany the application with a recent photograph of himself together with the required fee and such other documentation as the Board may require by regulation.

(c) Submit with the application a complete set of 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. An application must include all information required to complete the application.

Sec. 65. NRS 631.225 is hereby amended to read as follows:

631.225 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice dentistry or dental hygiene 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 dentistry or dental hygiene 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 dentistry ~~[or dental hygiene]~~ 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. 66. NRS 631.260 is hereby amended to read as follows:

631.260 As soon as possible after the examination has been given, the Board, under rules and regulations adopted by it, shall determine the qualifications of the applicant and shall issue to each person found by the Board to have the qualifications therefor a license which will entitle the person to practice ~~[dental hygiene or]~~ dentistry ~~[,]~~ or any special branch of dentistry, as in such license defined, subject to the provisions of this chapter.

Sec. 67. NRS 631.271 is hereby amended to read as follows:

631.271 1. The Board shall, without a clinical examination required by NRS 631.240 ~~, [or 631.300,]~~ issue a limited license to practice dentistry ~~[or dental hygiene]~~ to a person who:

(a) Is qualified for a license to practice dentistry ~~[or dental hygiene]~~ in this State;

(b) Pays the required application fee;

(c) Has entered into a contract with the Nevada System of Higher Education to provide services as a dental intern, dental resident or instructor of dentistry ~~[or dental hygiene]~~ at an educational or outpatient clinic, hospital or other facility of the Nevada System of Higher Education;

(d) Satisfies the requirements of NRS 631.230 *;* ~~[or 631.290, as appropriate;]~~ and

(e) Satisfies at least one of the following requirements:

(1) Has a license to practice dentistry ~~[or dental hygiene]~~ issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(2) Presents to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the person has passed, within the 5 years immediately preceding the date of the application, a

clinical examination administered by the Western Regional Examining Board; or

(3) Has the educational or outpatient clinic, hospital or other facility where the person will provide services as a dental intern or dental resident in an internship or residency program submit to the Board written confirmation that the person has been appointed to a position in the program and is a citizen of the United States or is lawfully entitled to remain and work in the United States. If a person qualifies for a limited license pursuant to this subparagraph, the limited license remains valid only while the person is actively providing services as a dental intern or dental resident in the internship or residency program, is lawfully entitled to remain and work in the United States and is in compliance with all other requirements for the limited license.

2. The Board shall not issue a limited license to a person:

(a) Who has been issued a license to practice dentistry ~~[or dental hygiene]~~ if:

(1) The person is involved in a disciplinary action concerning the license; or

(2) The license has been revoked or suspended; or

(b) Who has been refused a license to practice dentistry , ~~[or dental hygiene,]~~

➥ in this State, another state or territory of the United States, or the District of Columbia.

3. A person to whom a limited license is issued pursuant to subsection 1:

(a) May practice dentistry ~~[or dental hygiene]~~ in this State only:

(1) At the educational or outpatient clinic, hospital or other facility where he is employed; and

(2) In accordance with the contract required by paragraph (c) of subsection 1.

(b) Shall not, for the duration of the limited license, engage in the private practice of dentistry ~~[or dental hygiene]~~ in this State or accept compensation for the practice of dentistry ~~[or dental hygiene]~~ except such compensation as may be paid to him by the Nevada System of Higher Education for services provided as a dental intern, dental resident or instructor of dentistry . ~~[or dental hygiene.]~~

4. A limited license expires 1 year after its date of issuance and may be renewed on or before the date of its expiration, unless the holder no longer satisfies the requirements for the limited license. The holder of a limited license may, upon compliance with the applicable requirements set forth in NRS 631.330 and the completion of a review conducted at the discretion of the Board, be granted a renewal certificate that authorizes the continuation of practice pursuant to the limited license for 1 year.

5. Within 7 days after the termination of his contract required by paragraph (c) of subsection 1, the holder of a limited license shall notify the

Board of the termination, in writing, and surrender the limited license to the Board.

6. The Board may revoke a limited license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.

Sec. 68. NRS 631.274 is hereby amended to read as follows:

631.274 1. The Board shall, without a clinical examination required by NRS 631.240 , ~~[or 631.300,]~~ issue a restricted geographical license to practice dentistry ~~[or dental hygiene]~~ to a person if he meets the requirements of subsection 2 and:

(a) A board of county commissioners submits a request that the Board of Dental Examiners of Nevada waive the requirements of NRS 631.240 ~~[or 631.300]~~ for any applicant intending to practice dentistry ~~[or dental hygiene]~~ in a rural area of a county in which dental ~~[or dental hygiene]~~ needs are underserved as that term is defined by the officer of rural health of the University of Nevada School of Medicine;

(b) Two or more boards of county commissioners submit a joint request that the Board of Dental Examiners of Nevada waive the requirements of NRS 631.240 ~~[or 631.300]~~ for any applicant intending to practice dentistry ~~[or dental hygiene]~~ in one or more rural areas within those counties in which dental ~~[or dental hygiene]~~ needs are underserved as that term is defined by the officer of rural health of the University of Nevada School of Medicine; or

(c) The director of a federally qualified health center or a nonprofit clinic submits a request that the Board waive the requirements of NRS 631.240 ~~[or 631.300]~~ for any applicant who has entered into a contract with a federally qualified health center or nonprofit clinic which treats underserved populations in Washoe County or Clark County.

2. A person may apply for a restricted geographical license if he:

(a) Has a license to practice dentistry ~~[or dental hygiene]~~ issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(b) Is otherwise qualified for a license to practice dentistry ~~[or dental hygiene]~~ in this State;

(c) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.240 *;* ~~[or 631.300;]~~

(d) Submits all information required to complete an application for a license; and

(e) Satisfies the requirements of NRS 631.230 . ~~[or 631.290, as appropriate.]~~

3. The Board shall not issue a restricted geographical license to a person:

(a) Whose license to practice dentistry ~~[or dental hygiene]~~ has been revoked or suspended;

(b) Who has been refused a license to practice dentistry *;* ~~[or dental hygiene;]~~ or

(c) Who is involved in or has pending a disciplinary action concerning his license to practice dentistry , ~~[or dental hygiene,]~~
➥ in this State, another state or territory of the United States, or the District of Columbia.

4. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

5. A person to whom a restricted geographical license is issued pursuant to this section:

(a) May practice dentistry ~~[or dental hygiene]~~ only in the county or counties which requested the restricted geographical licensure pursuant to paragraph (a) or (b) of subsection 1.

(b) Shall not, for the duration of the restricted geographical license, engage in the private practice of dentistry ~~[or dental hygiene]~~ in this State or accept compensation for the practice of dentistry ~~[or dental hygiene]~~ except such compensation as may be paid to him by a federally qualified health center or nonprofit clinic pursuant to paragraph (c) of subsection 1.

6. Within 7 days after the termination of his contract pursuant to paragraph (c) of subsection 1, the holder of a restricted geographical license shall notify the Board of the termination, in writing, and surrender the restricted geographical license.

7. A person to whom a restricted geographical license was issued pursuant to this section may petition the Board for an unrestricted license without a clinical examination required by NRS 631.240 ~~[or 631.300]~~ if the person:

(a) Has not had his license to practice dentistry ~~[or dental hygiene]~~ revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(b) Has not been refused a license to practice dentistry ~~[or dental hygiene]~~ in this State, another state or territory of the United States, or the District of Columbia;

(c) Is not involved in or does not have pending a disciplinary action concerning his license to practice dentistry ~~[or dental hygiene]~~ in this State, another state or territory of the United States, or the District of Columbia; and

(d) Has:

(1) Actively practiced dentistry ~~[or dental hygiene]~~ for 3 years at a minimum of 30 hours per week in the county or counties which requested the restricted geographical licensure pursuant to paragraph (a) or (b) of subsection 1; or

(2) Been under contract with a federally qualified health center or nonprofit clinic for a minimum of 3 years.

8. The Board may revoke a restricted geographical license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.

Sec. 69. NRS 631.313 is hereby amended to read as follows:

631.313 1. A licensed dentist may assign to a person in his employ who is a dental hygienist, dental assistant or other person directly or indirectly involved in the provision of dental care only such intraoral tasks as may be permitted by a regulation of the Board or by the provisions of this chapter.

2. The performance of these tasks must be:

(a) If performed by a dental assistant or a person, other than a dental hygienist, who is directly or indirectly involved in the provision of dental care, under the supervision of the licensed dentist who made the assignment.

(b) If performed by a dental hygienist, authorized by the licensed dentist of the patient for whom the tasks will be performed, except as otherwise provided in ~~[~~NRS 631.287.~~]~~ *section 28 of this act.*

3. No such assignment is permitted that requires:

(a) The diagnosis, treatment planning, prescribing of drugs or medicaments, or authorizing the use of restorative, prosthodontic or orthodontic appliances.

(b) Surgery on hard or soft tissues within the oral cavity or any other intraoral procedure that may contribute to or result in an irremediable alteration of the oral anatomy.

(c) The administration of general anesthesia, conscious sedation or deep sedation except as otherwise authorized by regulations adopted by the Board.

(d) The performance of a task outside the authorized scope of practice of the employee who is being assigned the task.

~~[4. A dental hygienist may, pursuant to regulations adopted by the Board, administer local anesthesia or nitrous oxide in a health care facility, as defined in NRS 449.800, if:~~

~~(a) He is so authorized by the licensed dentist of the patient to whom the local anesthesia or nitrous oxide is administered; and~~

~~(b) The health care facility has licensed medical personnel and necessary emergency supplies and equipment available when the local anesthesia or nitrous oxide is administered.]~~

Sec. 70. NRS 631.317 is hereby amended to read as follows:

631.317 The Board shall adopt rules or regulations:

1. Specifying the intraoral tasks that may be assigned by a licensed dentist to a ~~[~~dental hygienist or~~]~~ dental assistant in his employ . ~~[~~or that may be performed by a dental hygienist engaged in school health activities or employed by a public health agency.~~]~~

2. Governing the practice of dentists ~~[~~and dental hygienists~~]~~ in full-time employment with the State of Nevada.

Sec. 71. NRS 631.330 is hereby amended to read as follows:

631.330 1. Licenses issued pursuant to NRS 631.271 and 631.275 must be renewed annually. All other licenses must be renewed biennially.

2. Except as otherwise provided in NRS 631.271 and 631.275:

(a) Each holder of a license to practice dentistry ~~[~~or dental hygiene~~]~~ must, upon:

(1) Payment of the required fee;

(2) Submission of proof of completion of the required continuing education; and

(3) Submission of all information required to complete the renewal,

➥ be granted a renewal certificate which will authorize continuation of the practice for 2 years.

(b) A licensee must comply with the provisions of this subsection and subsection 1 on or before June 30. Failure to comply with those provisions by June 30 every 2 years automatically suspends the license, and it may be reinstated only upon payment of the fee for reinstatement and compliance with the requirements of this subsection.

3. If a license suspended pursuant to this section is not reinstated within 12 months after suspension, it is automatically revoked.

Sec. 72. NRS 631.342 is hereby amended to read as follows:

631.342 1. The Board shall adopt regulations concerning continuing education in dentistry . ~~[and dental hygiene.]~~ The regulations must include:

(a) The number of hours of credit required annually;

(b) The criteria used to accredit each course;

(c) The requirements for submission of proof of attendance at courses; and

(d) A provision requiring the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

(2) Personal protective equipment required for acts of terrorism;

(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

➥ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

2. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.

(b) "Biological agent" has the meaning ascribed to it in NRS 202.442.

(c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.

(d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.

(e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 73. NRS 631.340 is hereby amended to read as follows:

631.340 1. Any person who has obtained from the Board a license certificate to practice ~~[dental hygiene or]~~ dentistry or any special branch of dentistry in this State, and who fails to obtain a renewal certificate, must, before resuming the practice in which he was licensed, make application to the Secretary-Treasurer, under such rules as the Board may prescribe, for the restoration of the license to practice.

2. Upon application being made, the Secretary-Treasurer shall determine whether the applicant possesses the qualifications prescribed for the granting of a license to practice in his particular profession, and whether the applicant continues to possess a good moral character and is not otherwise disqualified to practice in this State. If the Secretary-Treasurer so determines, he shall thereupon issue the license, and thereafter the person may make application annually for a renewal certificate, as provided in this chapter.

Sec. 74. NRS 631.346 is hereby amended to read as follows:

631.346 The following acts, among others, constitute unprofessional conduct:

1. Employing, directly or indirectly, any student or any suspended or unlicensed dentist or dental hygienist to perform operations of any kind to treat or correct the teeth or jaws, except as provided in this chapter;

2. ~~[Except as otherwise provided in NRS 631.287, giving]~~ *Giving* a public demonstration of methods of practice any place other than the office where the licensee is known to be regularly engaged in this practice;

3. Employing, procuring, inducing, aiding or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry, but a patient shall not be deemed to be an accomplice, employer, procurer, inducer, aider or abettor; *or*

4. ~~[For a dental hygienist, practicing in any place not authorized pursuant to this chapter; or~~

~~5.]~~ Practicing while his license is suspended or without a renewal certificate.

Sec. 75. NRS 631.3475 is hereby amended to read as follows:

631.3475 The following acts, among others, constitute unprofessional conduct:

1. Malpractice;

2. Professional incompetence;

3. Suspension or revocation of his license to practice dentistry, the imposition of a fine or other disciplinary action by any agency of another state authorized to regulate the practice of dentistry in that state;

4. More than one act by the dentist ~~[or dental hygienist]~~ constituting substandard care in the practice of dentistry *;* ~~[or dental hygiene;]~~

5. Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, if it is not required to treat the dentist's patient;

6. Chronic or persistent inebriety or addiction to a controlled substance, to such an extent as to render him unsafe or unreliable as a practitioner, or such gross immorality as tends to bring reproach upon the dental profession;

7. Conviction of a felony or misdemeanor involving moral turpitude or which relates to the practice of dentistry in this State, or conviction of any criminal violation of this chapter; or

8. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

Sec. 76. NRS 631.3487 is hereby amended to read as follows:

631.3487 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 dentistry , ~~[or dental hygiene,]~~ 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 dentistry ~~[or dental hygiene]~~ that has been suspended by a district court pursuant to NRS 425.540 if:

(a) 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; and

(b) The person whose license was suspended pays the fee imposed pursuant to NRS 631.345 for the reinstatement of a suspended license.

Sec. 77. NRS 631.350 is hereby amended to read as follows:

631.350 1. Except as otherwise provided in NRS 631.271 and 631.347, the Board may:

(a) Refuse to issue a license to any person;

(b) Revoke or suspend the license or renewal certificate issued by it to any person;

(c) Fine a person it has licensed;

(d) Place a person on probation for a specified period on any conditions the Board may order;

(e) Issue a public reprimand to a person;

(f) Limit a person's practice to certain branches of dentistry;

(g) Require a person to participate in a program to correct alcohol or drug abuse or any other impairment;

(h) Require that a person's practice be supervised;

(i) Require a person to perform community service without compensation;

(j) Require a person to take a physical or mental examination or an examination of his competence;

(k) Require a person to fulfill certain training or educational requirements;

(l) Require a person to reimburse a patient; or

(m) Any combination thereof,

➥ upon submission of substantial evidence to the Board that the person has engaged in any of the activities listed in subsection 2.

2. The following activities may be punished as provided in subsection 1:

(a) Engaging in the illegal practice of dentistry *;* ~~[or dental hygiene;]~~

(b) Engaging in unprofessional conduct; or

(c) Violating any regulations adopted by the Board or the provisions of this chapter.

3. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

5. The Board shall not administer a private reprimand.

6. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 631.380 is hereby amended to read as follows:

631.380 All licenses and renewal certificates *to practice dentistry or a specialty thereof* heretofore issued by the Board and in force on March 20, 1951, shall remain in force subject to the provisions of this chapter, and shall entitle the holders to practice their profession as therein designated.

Sec. 79. NRS 631.395 is hereby amended to read as follows:

631.395 A person is guilty of the illegal practice of dentistry ~~[or dental hygiene]~~ who:

1. Sells or barters, or offers to sell or barter, any diploma or document conferring or purporting to confer any dental degree, or any certificate or transcript made or purporting to be made pursuant to the laws regulating the licensing and registration of dentists *;* ~~[or dental hygienists;]~~

2. Purchases or procures by barter any such diploma, certificate or transcript, with the intent that it be used as evidence of the holder's qualifications to practice dentistry, or in fraud of the laws regulating that practice;

3. With fraudulent intent, alters in a material regard any such diploma, certificate or transcript;

4. Uses or attempts to use any diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist *;* ~~[or a dental hygienist;]~~

5. Practices dentistry under a false or assumed name;

6. Assumes the degree of "Doctor of Dental Surgery" or "Doctor of Dental Medicine" or appends the letters "D.D.S." or "D.M.D." ~~[or "R.D.H."]~~ to his name, not having conferred upon him, by diploma from an accredited dental ~~[or dental hygiene]~~ college or school legally empowered to confer the title, the right to assume the title; or assumes any title or appends any letters to his name with the intent to represent falsely that he has received a dental degree or license;

7. Willfully makes, as an applicant for examination, license or registration under this chapter, a false statement in a material regard in an affidavit required by this chapter;

8. Within 10 days after a demand is made by the Secretary-Treasurer, fails to furnish to the Board the names and addresses of all persons practicing or assisting in the practice of dentistry in the office of the person at any time within 60 days before the notice, together with a sworn statement showing under and by what license or authority the person and his employee are and have been practicing dentistry, but the affidavit must not be used as evidence against the person in any proceeding under this chapter;

9. Except as otherwise provided in NRS 629.091, practices dentistry ~~[or dental hygiene]~~ in this State without a license;

10. Except as otherwise provided in NRS 631.385, owns or controls a dental practice, shares in the fees received by a dentist or controls or attempts to control the services offered by a dentist if the person is not himself licensed pursuant to this chapter; or

11. Aids or abets another in violating any of the provisions of this chapter.

Sec. 80. NRS 631.400 is hereby amended to read as follows:

631.400 1. A person who engages in the illegal practice of dentistry in this State is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. ~~[A person who practices or offers to practice dental hygiene in this State without a license, or who, having a license, practices dental hygiene in a manner or place not permitted by the provisions of this chapter:~~

~~(a) If it is his first or second offense, is guilty of a gross misdemeanor.~~

~~(b) If it is his third or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~3.]~~ Unless a greater penalty is provided by specific statute, a person who is licensed to practice dentistry who practices dentistry in a manner or place not permitted by the provisions of this chapter:

(a) If it is his first or second offense, is guilty of a gross misdemeanor.

(b) If it is his third or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~[4.]~~ *3.* The Board may assign a person described in subsection 1 ~~[,]~~ *or* 2 ~~[or 3]~~ specific duties as a condition of renewing his license.

~~[5.]~~ *4.* If a person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the district court of any county, on application of the Board, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this subsection are governed by Rule 65 of the Nevada Rules of Civil Procedure, except that no bond or undertaking is required in any action commenced by the Board.

Sec. 81. NRS 439.279 is hereby amended to read as follows:

439.279 1. The Health Division shall appoint, with the consent of the Director, a State Public Health Dental Hygienist, who is in the unclassified service of the State. The State Public Health Dental Hygienist must:

(a) Be a resident of this State;

(b) Hold a current license to practice dental hygiene issued pursuant to ~~[chapter 631 of NRS]~~ *sections 2 to 56, inclusive, of this act* with a special endorsement issued pursuant to ~~[NRS 631.287;]~~ *section 28 of this act;* and

(c) Be appointed on the basis of his education, training and experience and his interest in public health dental hygiene and related programs.

2. The State Public Health Dental Hygienist:

(a) Shall assist the State Dental Health Officer in carrying out his duties; and

(b) May:

(1) Make recommendations to the Health Division regarding programs in this State for public health dental hygiene; and

(2) Perform any acts authorized pursuant to ~~[NRS 631.287.]~~ *section 28 of this act.*

3. The State Public Health Dental Hygienist shall devote all of his time to the business of his office and shall not pursue any other business or vocation or hold any other office of profit.

4. The Health Division may solicit and accept gifts and grants to pay the costs associated with the position of State Public Health Dental Hygienist.

Sec. 82. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for licensing or registration or for the renewal of licenses or certificates of registration pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for licensing or registration or to

the renewal of a license or certificate of registration issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 83. NRS 640A.070 is hereby amended to read as follows:

640A.070 This chapter does not apply to a person:

1. Holding a current license or certificate issued pursuant to chapter 391, 630 to 637B, inclusive, 640, 640B to 641B, inclusive, of NRS, *or sections 2 to 56, inclusive, of this act* who practices within the scope of that license or certificate.

2. Employed by the Federal Government who practices occupational therapy within the scope of that employment.

3. Enrolled in an educational program approved by the Board which is designed to lead to a certificate or degree in occupational therapy, if he is designated by a title which clearly indicates that he is a student.

4. Obtaining the supervised experience necessary to satisfy the requirements of subsection 3 of NRS 640A.120.

5. Practicing occupational therapy in this State in association with an occupational therapist licensed pursuant to this chapter if the person:

(a) Practices in this State for not more than 45 days in a calendar year;

(b) Is licensed to practice occupational therapy in another state where the requirements for such a license are equivalent to the requirements of this chapter; and

(c) Meets the requirements for certification as an "occupational therapist registered" or "certified occupational therapy assistant" established by the American Occupational Therapy Certification Board.

Sec. 84. NRS 640B.145 is hereby amended to read as follows:

640B.145 The provisions of this chapter do not apply to:

1. A person who is licensed pursuant to chapters 630 to 637, inclusive, or chapter 640 or 640A of NRS, *or sections 2 to 56, inclusive, of this act,* when acting within the scope of that license.

2. A person who is employed by the Federal Government and engages in the practice of athletic training within the scope of that employment.

3. A person who is employed as an athletic trainer outside this State when engaging in the practice of athletic training within the scope of that employment in connection with an athletic event held in this State.

Sec. 85. NRS 640C.100 is hereby amended to read as follows:

640C.100 1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS *or sections 2 to 56, inclusive, of this act* if the massage therapy is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an aesthetician, cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an aesthetician, cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy on athletes.

(e) Students enrolled in a school of massage therapy recognized by the Board.

(f) A person who practices massage therapy solely on members of his immediate family.

(g) A person who performs any activity in a licensed brothel.

2. Except as otherwise provided in subsection 3, the provisions of this chapter preempt the licensure and regulation of a massage therapist by a county, city or town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or applicant for a license to practice massage therapy.

3. The provisions of this chapter do not prohibit a county, city or town from requiring a massage therapist to obtain a license or permit to transact business within the jurisdiction of the county, city or town, if the license or permit is required of other persons, regardless of occupation or profession, who transact business within the jurisdiction of the county, city or town.

4. As used in this section, "immediate family" means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

Sec. 86. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; or

(c) To persons or agencies enumerated in subsection 3,

➥ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, *or sections 2 to 56, inclusive, of this act,* information contained in the report must be submitted to the board that issued the license.

Sec. 87. NRS 218.825 is hereby amended to read as follows:

218.825 1. Except as otherwise provided in subsection 2, each board created by the provisions of NRS 590.485 and chapters 623 to 625A,

inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS *and sections 2 to 56, inclusive, of this act* shall:

(a) If the revenue of the board from all sources is less than $50,000 for any fiscal year, prepare a balance sheet for that fiscal year on the form provided by the Legislative Auditor and file the balance sheet with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of that fiscal year. The Legislative Auditor shall prepare and make available a form that must be used by a board to prepare such a balance sheet.

(b) If the revenue of the board from all sources is $50,000 or more for any fiscal year, engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for that fiscal year and file a report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of that fiscal year.

2. In lieu of preparing a balance sheet or having an audit conducted for a single fiscal year, a board may engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for a period covering two successive fiscal years. If such an audit is conducted, the board shall file the report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of the second fiscal year.

3. The cost of each audit conducted pursuant to subsection 1 or 2 must be paid by the board that is audited. Each such audit must be conducted in accordance with generally accepted auditing standards, and all financial statements must be prepared in accordance with generally accepted principles of accounting for special revenue funds.

4. Whether or not a board is required to have its fiscal records audited pursuant to subsection 1 or 2, the Legislative Auditor shall audit the fiscal records of any such board whenever directed to do so by the Legislative Commission. When the Legislative Commission directs such an audit, the Legislative Commission shall also determine who is to pay the cost of the audit.

5. A person who is a state officer or employee of a board is guilty of nonfeasance if the person:

(a) Is responsible for preparing a balance sheet or having an audit conducted pursuant to this section or is responsible for preparing or maintaining the fiscal records that are necessary to prepare a balance sheet or have an audit conducted pursuant to this section; and

(b) Knowingly fails to prepare the balance sheet or have the audit conducted pursuant to this section or knowingly fails to prepare or maintain the fiscal records that are necessary to prepare a balance sheet or have an audit conducted pursuant to this section.

6. In addition to any other remedy or penalty, a person who is guilty of nonfeasance pursuant to this section forfeits his state office or employment and may not be appointed to a state office or position of state employment for a period of 2 years following the forfeiture. The provisions of this subsection do not apply to a state officer who may be removed from office only by impeachment pursuant to Article 7 of the Nevada Constitution.

Sec. 88. NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS ~~[,]~~ *and sections 2 to 56, inclusive, of this act;* or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS *and sections 2 to 56, inclusive, of this act* which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

Sec. 89. NRS 353.005 is hereby amended to read as follows:

353.005 The provisions of this chapter do not apply to boards created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS *and sections 2 to 56, inclusive, of this act* and the officers and employees of those boards.

Sec. 90. NRS 353A.020 is hereby amended to read as follows:

353A.020 1. The Director, in consultation with the Committee and Legislative Auditor, shall adopt a uniform system of internal accounting and administrative control for agencies. The elements of the system must include, without limitation:

(a) A plan of organization which provides for a segregation of duties appropriate to safeguard the assets of the agency;

(b) A plan which limits access to assets of the agency to persons who need the assets to perform their assigned duties;

(c) Procedures for authorizations and recordkeeping which effectively control accounting of assets, liabilities, revenues and expenses;

(d) A system of practices to be followed in the performance of the duties and functions of each agency; and

(e) An effective system of internal review.

2. The Director, in consultation with the Committee and Legislative Auditor, may modify the system whenever he considers it necessary.

3. Each agency shall develop written procedures to carry out the system of internal accounting and administrative control adopted pursuant to this section.

4. For the purposes of this section, "agency" does not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~[.]~~ *and sections 2 to 56, inclusive, of this act.*

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

Sec. 91. NRS 353A.025 is hereby amended to read as follows:

353A.025 1. The head of each agency shall periodically review the agency's system of internal accounting and administrative control to determine whether it is in compliance with the uniform system of internal accounting and administrative control for agencies adopted pursuant to subsection 1 of NRS 353A.020.

2. On or before July 1 of each even-numbered year, the head of each agency shall report to the Director whether the agency's system of internal accounting and administrative control is in compliance with the uniform system adopted pursuant to subsection 1 of NRS 353A.020. The reports must be made available for inspection by the members of the Legislature.

3. For the purposes of this section, "agency" does not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~[.]~~ *and sections 2 to 56, inclusive, of this act.*

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

4. The Director shall, on or before the first Monday in February of each odd-numbered year, submit a report on the status of internal accounting and administrative controls in agencies to the:

(a) Director of the Legislative Counsel Bureau for transmittal to the:

(1) Senate Standing Committee on Finance; and

(2) Assembly Standing Committee on Ways and Means;

(b) Governor; and

(c) Legislative Auditor.

5. The report submitted by the Director pursuant to subsection 4 must include, without limitation:

(a) The identification of each agency that has not complied with the requirements of subsections 1 and 2;

(b) The identification of each agency that does not have an effective method for reviewing its system of internal accounting and administrative control; and

(c) The identification of each agency that has weaknesses in its system of internal accounting and administrative control, and the extent and types of such weaknesses.

Sec. 92. NRS 353A.045 is hereby amended to read as follows:

353A.045 The Chief shall:

1. Report to the Director.

2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the Director for approval. Such agencies must not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~[.]~~ *sections 2 to 56, inclusive, of this act.*

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

3. Provide a copy of the approved annual work plan to the Legislative Auditor.

4. In consultation with the Director, prepare a plan for auditing executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing must:

(a) State the agencies which will be audited, the proposed scope and assignment of those audits and the related resources which will be used for those audits; and

(b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.

5. Perform the audits of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of NRS 353A.038 and prepare audit reports of his findings.

6. Review each agency that is audited pursuant to subsection 5 and advise those agencies concerning internal accounting, administrative controls and financial management.

7. Submit to each agency that is audited pursuant to subsection 5 analyses, appraisals and recommendations concerning:

(a) The adequacy of the internal accounting and administrative controls of the agency; and

(b) The efficiency and effectiveness of the management of the agency.

8. Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit.

9. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.

10. Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5.

11. Appoint a Manager of Internal Controls.

Sec. 93. NRS 454.361 is hereby amended to read as follows:

454.361 A conviction of the violation of any of the provisions of NRS 454.181 to 454.371, inclusive, constitutes grounds for the suspension or revocation of any license issued to such person pursuant to the provisions of chapters 630, 631, 633, 635, 636, 638 or 639 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 94. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to an employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, 645G and 656A of NRS ~~[.]~~ *and sections 2 to 56, inclusive, of this act.*

Sec. 95. NRS 679B.440 is hereby amended to read as follows:

679B.440 1. The Commissioner may require that reports submitted pursuant to NRS 679B.430 include, without limitation, information regarding:

(a) Liability insurance provided to:

(1) Governmental agencies and political subdivisions of this State, reported separately for:

(I) Cities and towns;

(II) School districts; and

(III) Other political subdivisions;

(2) Public officers;

(3) Establishments where alcoholic beverages are sold;

(4) Facilities for the care of children;

(5) Labor, fraternal or religious organizations; and

(6) Officers or directors of organizations formed pursuant to title 7 of NRS, reported separately for nonprofit entities and entities organized for profit;

(b) Liability insurance for:

(1) Defective products;

(2) Medical or dental malpractice of:

(I) A practitioner licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639 or 640 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act;*

(II) A hospital or other health care facility; or

(III) Any related corporate entity.

(3) Malpractice of attorneys;

(4) Malpractice of architects and engineers; and

(5) Errors and omissions by other professionally qualified persons;

(c) Vehicle insurance, reported separately for:

(1) Private vehicles;

(2) Commercial vehicles;

(3) Liability insurance; and

(4) Insurance for property damage;

(d) Workers' compensation insurance; and

(e) In addition to any information provided pursuant to subparagraph (2) of paragraph (b) or NRS 690B.260, a policy of insurance for medical malpractice. As used in this paragraph, "policy of insurance for medical malpractice" has the meaning ascribed to it in NRS 679B.144.

2. The Commissioner may require that the report include, without limitation, information specifically pertaining to this State or to an insurer in its entirety, in the aggregate or by type of insurance, and for a previous or current year, regarding:

(a) Premiums directly written;

(b) Premiums directly earned;

(c) Number of policies issued;

(d) Net investment income, using appropriate estimates when necessary;

(e) Losses paid;

(f) Losses incurred;

(g) Loss reserves, including:

(1) Losses unpaid on reported claims; and

(2) Losses unpaid on incurred but not reported claims;

(h) Number of claims, including:

(1) Claims paid; and

(2) Claims that have arisen but are unpaid;

(i) Expenses for adjustment of losses, including allocated and unallocated losses;

(j) Net underwriting gain or loss;

(k) Net operation gain or loss, including net investment income; and

(l) Any other information requested by the Commissioner.

3. The Commissioner may also obtain, based upon an insurer in its entirety, information regarding:

(a) Recoverable federal income tax;

(b) Net unrealized capital gain or loss; and

(c) All other expenses not included in subsection 2.

Sec. 96. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) Group and blanket health insurance and credit health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS ~~[,]~~ *and sections 2 to 56, inclusive, of this act;* and

(h) Surety insurance.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

Sec. 97. NRS 686B.040 is hereby amended to read as follows:

686B.040 1. Except as otherwise provided in subsection 2, the Commissioner may by rule exempt any person or class of persons or any market segment from any or all of the provisions of NRS 686B.010 to 686B.1799, inclusive, if and to the extent that he finds their application unnecessary to achieve the purposes of those sections.

2. The Commissioner may not, by rule or otherwise, exempt an insurer from the provisions of NRS 686B.010 to 686B.1799, inclusive, with regard to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* for a breach of his professional duty toward a patient.

Sec. 98. NRS 686B.070 is hereby amended to read as follows:

686B.070 1. Every authorized insurer and every rate service organization licensed under NRS 686B.140 which has been designated by any insurer for the filing of rates under subsection 2 of NRS 686B.090 shall file with the Commissioner all:

(a) Rates and proposed increases thereto;

(b) Forms of policies to which the rates apply;

(c) Supplementary rate information; and

(d) Changes and amendments thereof,

➥ made by it for use in this state.

2. If an insurer makes a filing for a proposed increase in a rate for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* for a breach of his professional duty toward a patient, the insurer shall not include in the filing any component that is directly or indirectly related to the following:

(a) Capital losses, diminished cash flow from any dividends, interest or other investment returns, or any other financial loss that is materially outside of the claims experience of the professional liability insurance industry, as determined by the Commissioner.

(b) Losses that are the result of any criminal or fraudulent activities of a director, officer or employee of the insurer.

➥ If the Commissioner determines that a filing includes any such component, the Commissioner shall, pursuant to NRS 686B.110, disapprove the proposed increase, in whole or in part, to the extent that the proposed increase relies upon such a component.

Sec. 99. NRS 686B.115 is hereby amended to read as follows:

686B.115 1. Any hearing held by the Commissioner to determine whether rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive, must be open to members of the public.

2. All costs for transcripts prepared pursuant to such a hearing must be paid by the insurer requesting the hearing.

3. At any hearing which is held by the Commissioner to determine whether rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive, and which involves rates for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* for a breach of his professional duty toward a patient, if a person is not otherwise authorized pursuant to this title to become a party to the hearing by intervention, the person is entitled to provide testimony at the hearing if, not later than 2 days before the date set for the hearing, the person files with the Commissioner a written statement which states:

(a) The name and title of the person;

(b) The interest of the person in the hearing; and

(c) A brief summary describing the purpose of the testimony the person will offer at the hearing.

4. If a person provides testimony at a hearing in accordance with subsection 3:

(a) The Commissioner may, if he finds it necessary to preserve order, prevent inordinate delay or protect the rights of the parties at the hearing, place reasonable limitations on the duration of the testimony and prohibit the person from providing testimony that is not relevant to the issues raised at the hearing.

(b) The Commissioner shall consider all relevant testimony provided by the person at the hearing in determining whether the rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive.

Sec. 100. NRS 686B.117 is hereby amended to read as follows:

686B.117 If a filing made with the Commissioner pursuant to paragraph (a) of subsection 1 of NRS 686B.070 pertains to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* for a breach of

his professional duty toward a patient, any interested person, and any association of persons or organization whose members may be affected, may intervene as a matter of right in any hearing or other proceeding conducted to determine whether the applicable rate or proposed increase thereto:

1. Complies with the standards set forth in NRS 686B.050 and subsection 2 of NRS 686B.070.

2. Should be approved or disapproved.

Sec. 101. NRS 689A.035 is hereby amended to read as follows:

689A.035 1. An insurer shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the insurer to its insureds.

2. An insurer shall not contract with a provider of health care to provide health care to an insured unless the insurer uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between an insurer and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the insurer upon giving to the provider 30 days' written notice of the modification. If the provider fails to object in writing to the modification within the 30-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the 30-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If an insurer contracts with a provider of health care to provide health care to an insured, the insurer shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 102. NRS 689B.015 is hereby amended to read as follows:

689B.015 1. An insurer that issues a policy of group health insurance shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the insurer to its insureds.

2. An insurer specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the insurer uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between an insurer specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the insurer upon giving to the provider 30 days' written notice of the modification. If the provider fails to object in writing to the modification within the 30-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the 30-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If an insurer specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the insurer shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~.~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 103. NRS 689C.435 is hereby amended to read as follows:

689C.435 1. A carrier serving small employers and a carrier that offers a contract to a voluntary purchasing group shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the carrier to its insureds.

2. A carrier specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the carrier uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a carrier specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the carrier upon giving to the provider 30 days' written notice of the modification. If the provider fails to object in writing to the modification within the 30-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the 30-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If a carrier specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the carrier shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 104. NRS 690B.250 is hereby amended to read as follows:

690B.250 Except as more is required in NRS 630.3067 and 633.526:

1. Each insurer which issues a policy of insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS *and sections 2 to 56, inclusive, of this act* for a breach of his professional duty toward a patient shall report to the board which licensed the practitioner within 45 days each settlement or award made or judgment rendered by reason of a claim, if the settlement, award or judgment is for more than $5,000, giving the name and address of the claimant and the practitioner and the circumstances of the case.

2. A practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS *and sections 2 to 56, inclusive, of this act* who does not have insurance covering liability for a breach of his professional duty toward a patient shall report to the board which issued his license within 45 days of each settlement or award made or judgment rendered by reason of a claim, if the settlement, award or judgment is for more than $5,000, giving his name and address, the name and address of the claimant and the circumstances of the case.

3. These reports are public records and must be made available for public inspection within a reasonable time after they are received by the licensing board.

Sec. 105. NRS 690B.270 is hereby amended to read as follows:

690B.270 If an insurer declines to issue to a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* a policy of professional liability insurance, the insurer shall, upon the request of the practitioner, disclose to the practitioner the reasons the insurer declined to issue the policy.

Sec. 106. NRS 690B.280 is hereby amended to read as follows:

690B.280 If an insurer, for a policy of professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[,]~~ *or sections 2 to 56, inclusive, of this act,* sets the premium for the policy for the practitioner at a rate that is higher than the standard rate of the insurer for the applicable type of policy and specialty of the practitioner, the insurer shall, upon the request of the practitioner, disclose the reasons the insurer set the premium for the policy at the higher rate.

Sec. 107. NRS 690B.290 is hereby amended to read as follows:

690B.290 If an insurer offers to issue a claims-made policy to a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[,]~~ *or sections 2 to 56, inclusive, of this act,* the insurer shall:

1. Offer to issue an extended reporting endorsement to the practitioner; and

2. Disclose to the practitioner the cost formula that the insurer uses to determine the premium for the extended reporting endorsement. The cost formula must be based on:

(a) An amount that is not more than twice the amount of the premium for the claims-made policy at the time of the termination of that policy; and

(b) The rates filed by the insurer and approved by the Commissioner.

Sec. 108. NRS 690B.310 is hereby amended to read as follows:

690B.310 1. If an agreement settles a claim or action against a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* for a breach of his professional duty toward a patient, the following terms of the agreement must not be made confidential:

(a) The names of the parties;

(b) The date of the incidents or events giving rise to the claim or action;

(c) The nature of the claim or action as set forth in the complaint and the answer that is filed with the district court; and

(d) The effective date of the agreement.

2. Any provision of an agreement to settle a claim or action that conflicts with this section is void.

Sec. 109. NRS 690B.320 is hereby amended to read as follows:

690B.320 1. If an insurer offers to issue a claims-made policy to a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS, *and sections 2 to 56, inclusive, of this act,* the insurer shall:

(a) Offer to issue to the practitioner an extended reporting endorsement without a time limitation for reporting a claim.

(b) Disclose to the practitioner the premium for the extended reporting endorsement and the cost formula that the insurer uses to determine the premium for the extended reporting endorsement.

(c) Disclose to the practitioner the portion of the premium attributable to funding the extended reporting endorsement offered at no additional cost to the practitioner in the event of the practitioner's death, disability or retirement, if such a benefit is offered.

(d) Disclose to the practitioner the vesting requirements for the extended reporting endorsement offered at no additional cost to the practitioner in the event of the practitioner's death or retirement, if such a benefit is offered. If such a benefit is not offered, the absence of such a benefit must be disclosed.

(e) Include, as part of the insurance contract, language which must be approved by the Commissioner and which must be substantially similar to the following:

> If we adopt any revision that would broaden the coverage under this policy without any additional premium either within the policy period or within 60 days before the policy period, the broadened coverage will immediately apply to this policy.

2. The disclosures required by subsection 1 must be made as part of the offer and acceptance at the inception of the policy and again at each renewal in the form of an endorsement attached to the insurance contract and approved by the Commissioner.

3. The requirements set forth in this section are in addition to the requirements set forth in NRS 690B.290.

Sec. 110. NRS 690B.340 is hereby amended to read as follows:

690B.340 If a settlement or judgment exceeds the limits of the coverage provided by a policy of professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[,]~~ *or sections 2 to 56, inclusive, of this act,* the Commissioner shall review the settlement or judgment. If the Commissioner finds, after notice and a hearing, or upon waiver of hearing by the insurer, that the insurer who issued the policy violated any provision of this Code with regard to the settlement or judgment, any combination of such settlements or judgments, or any proceedings related thereto, the Commissioner may suspend, limit or revoke the insurer's certificate of authority.

Sec. 111. NRS 690B.360 is hereby amended to read as follows:

690B.360 1. The Commissioner shall collect all information which is pertinent to monitoring whether an insurer that issues professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* is complying with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive. Such information must include, without limitation:

(a) The amount of gross premiums collected with regard to each medical specialty;

(b) Information relating to loss ratios;

(c) Information reported pursuant to NRS 690B.250; and

(d) Information reported pursuant to NRS 679B.430 and 679B.440.

2. In addition to the information collected pursuant to subsection 1, the Commissioner may request any additional information from an insurer:

(a) Whose rates and credit utilization are materially different from other insurers in the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* in this State;

(b) Whose credit utilization shows a substantial change from the previous year; or

(c) Whose information collected pursuant to subsection 1 indicates a potentially adverse trend.

3. If the Commissioner requests additional information from an insurer pursuant to subsection 2, the Commissioner shall:

(a) Determine whether the additional information offers a reasonable explanation for the results described in paragraphs (a), (b) or (c) of subsection 2; and

(b) Take any steps permitted by law that are necessary and appropriate to assure the ongoing stability of the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* in this State.

4. On an ongoing basis, the Commissioner shall:

(a) Analyze and evaluate the information collected pursuant to this section to determine trends in and measure the health of the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS *or sections 2 to 56, inclusive, of this act* in this State; and

(b) Prepare and submit a report of his findings and recommendations to the Director of the Legislative Counsel Bureau for transmittal to members of the Legislature on or before November 15 of each year.

Sec. 112. NRS 695A.095 is hereby amended to read as follows:

695A.095 1. A society shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the society to its insureds.

2. A society shall not contract with a provider of health care to provide health care to an insured unless the society uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a society and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the society upon giving to the provider 30 days' written notice of the modification. If the provider fails to object in writing to the modification within the 30-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the 30-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If a society contracts with a provider of health care to provide health care to an insured, the society shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 113. NRS 695B.035 is hereby amended to read as follows:

695B.035 1. A corporation subject to the provisions of this chapter shall not charge a provider of health care a fee to include the name of the

provider on a list of providers of health care given by the corporation to its insureds.

2. A corporation specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the corporation uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a corporation specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the corporation upon giving to the provider 30 days' written notice of the modification. If the provider fails to object in writing to the modification within the 30-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the 30-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If a corporation specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the corporation shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 114. NRS 695C.125 is hereby amended to read as follows:

695C.125 1. A health maintenance organization shall not contract with a provider of health care to provide health care to an insured unless the health maintenance organization uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

2. A contract between a health maintenance organization and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the health maintenance organization upon giving to the provider 30 days' written notice of the modification. If the provider fails to object in writing to the modification within the 30-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the 30-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

3. If a health maintenance organization contracts with a provider of health care to provide health care to an enrollee, the health maintenance organization shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments specified in paragraph (a) within 7 days after receiving the request.

4. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 115. NRS 695G.430 is hereby amended to read as follows:

695G.430 1. A managed care organization shall not contract with a provider of health care to provide health care to an insured unless the managed care organization uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

2. A contract between a managed care organization and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the managed care organization upon giving to the provider 30 days' written notice of the modification. If the provider fails to object in writing to the modification within the 30-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the 30-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

3. If a managed care organization contracts with a provider of health care to provide health care services pursuant to chapter 689A, 689B, 689C, 695A, 695B or 695C of NRS, the managed care organization shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments specified in paragraph (a) within 7 days after receiving the request.

4. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS ~~[.]~~ *or sections 2 to 56, inclusive, of this act.*

Sec. 116. NRS 631.205, 631.273, 631.287, 631.290, 631.300 and 631.310 are hereby repealed.

Sec. 117. 1. ~~[The member of the Committee on Dental Hygiene serving pursuant to paragraph (b) of subsection 2 of the former provisions of NRS 631.205 shall continue to serve as a member of the Committee on~~

~~Dental Hygiene pursuant to the provisions of section 21 of this act until the Board of Dental Examiners of Nevada appoints his replacement pursuant to paragraph (b) of subsection 2 of section 21 of this act.~~

~~2.~~ As soon as practicable, the Governor shall appoint the members of the Nevada State Board of Dental Hygienists and the Board of Dental Examiners of Nevada as required pursuant to the amendatory provisions of sections 12 and 60 of this act. *The current members of the Committee on Dental Hygiene who are dental hygienists shall be deemed appointed to the Nevada State Board of Dental Hygienists for terms equal to the remainder of their current terms on the Committee on Dental Hygiene.*

~~3.~~ *2.* If a person is actively licensed as a dental hygienist pursuant to chapter 631 of NRS on September 30, 2009, he shall be deemed to hold an equivalent license, with the same expiration date, pursuant to the provisions of sections 2 to 56, inclusive, of this act.

Sec. 118. 1. This section and sections 1 to 23, inclusive, and 25 to 117, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of making appointments, adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2009, for all other purposes.

2. Sections 23 and 65 of this act expire by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending or restricting the use of professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

3. Section 24 of this act becomes effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending or restricting the use of professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

4. Sections 44 and 76 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

631.205 Creation; membership; powers and duties.

631.273 Temporary license to practice dental hygiene.

631.287 Dental hygienists: Special endorsement of license to practice public health dental hygiene.

631.290 Dental hygienists: Eligibility to apply for license.

631.300 Dental hygienists: Examination; issuance of certificate of registration.

631.310 Dental hygienists: Places of practice; supervision; provision of services.

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 makes changes to the composition of the State Board of Dental Hygienists. The amendment also deletes reference to the Committee on Dental Hygiene.

Technical revisions upon moving the Committee on Dental Hygiene out from under the jurisdiction of the State Board of Dental Examiners and to have them situated as their own board.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 330.

Bill read second time.

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

Amendment No. 450.

"SUMMARY—Enacts the Initiative for a World-Class Education in Nevada. (BDR 34-171)"

"AN ACT relating to education; revising provisions relating to the Superintendent of Public Instruction; making various changes regarding the Department of Education, the State Board of Education and various councils and commissions related to the system of public education in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Department of Education, consisting of the State Board of Education, the State Board for Career and Technical Education and the Superintendent of Public Instruction, and creates the Commission on Educational Excellence, the Commission on Educational Technology, the Council to Establish Academic Standards for Public Schools, the Commission on Professional Standards in Education and the Statewide Council for the Coordination of the Regional Training Programs. (NRS 385.010, 385.3784, 388.790, 389.510, 391.011, 391.516) This bill repeals provisions creating the Commission on Educational Excellence, the Commission on Educational Technology ~~[,]~~ *and* the Council to Establish Academic Standards for Public Schools *.* ~~[, the Commission on Professional Standards in Education and the Statewide Council for the Coordination of the Regional Training Programs.]~~ This bill also transfers certain duties and responsibilities formerly assigned to those bodies to the State Board of Education and the Department of Education.

Section 8 of this bill revises the membership of the State Board of Education to eliminate the 10 districts from which members are elected and provides for the election of one member from each of the congressional districts (currently three) and the appointment of one member ~~[each]~~ by the Governor ~~[, the Majority Leader of the Senate, the Speaker of the Assembly and]~~ *, one member by* the Board of Regents of the University of Nevada ~~[.]~~ *and two members by the Legislative Commission.* (NRS 385.021) Section 8 also prescribes the requirements for the members.

Section 9 of this bill requires the State Board of Education to establish clear and well-defined goals for the education of pupils in this State, the improvement of the system of public education in this State and to meet other specific objectives relating to education. (NRS 385.075)

Under existing law, the Superintendent is appointed by the State Board. (NRS 385.150) This bill changes the name of the Superintendent of Public Instruction to the State Superintendent for Education. Section 11 of this bill requires the Governor to nominate and the Senate to confirm each appointment as State Superintendent. If the position is vacant at a time when the Legislature is not in session, the Legislative Commission has the authority to confirm such a nominee. (NRS 385.150)

~~[Section 2 of this bill creates within the Department four divisions: (1) the Division of Assessment and Accountability; (2) the Division of Curriculum and Instruction; (3) the Division of Operations, Fiscal Services and Technology; and (4) the Division of Innovation, Research and Professional Development.]~~ Section 15 of this bill revises the Deputy Superintendent of Instructional, Research and Evaluative Services to be the Deputy Superintendent of ~~[the Division of]~~ Curriculum and Instruction. (NRS 385.290) Section 16 of this bill revises the Deputy Superintendent for Administrative and Fiscal Services to be the Deputy Superintendent of ~~[the Division of]~~ Operations, Fiscal Services and Technology. (NRS 385.300) ~~[Sections]~~ *Section* 3 ~~[and 4]~~ of this bill ~~[require]~~ *requires* the State Superintendent for Education to *appoint a Director of Assessment and Accountability to* oversee ~~[the business of the other two newly created Divisions.]~~ *certain activities of the public schools and school districts in this State. Section 4 of this bill requires the State Superintendent for Education to appoint a Director of Innovation, Research and Professional Development to perform certain duties required by the State Superintendent.*

Section 5 of this bill requires the Department to adopt a model to measure and track the achievement and progress of pupils in this State and prescribes the requirements for that system.

Section 5.5 of this bill authorizes the board of trustees of a school district or the governing body of a charter school to submit an application to the Department for grants of money for certain educational programs and services, including, without limitation, programs for innovation and the prevention of remediation, programs for peer mediation, programs for career and technical education and programs for educational technology. 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 authorizes a pupil who fails the high school proficiency examination to obtain a standard high school diploma if he: (1) fails the examination in its entirety not less than three times but passes the reading and mathematics portions of the examination; (2) has a 2.75 grade point average; (3) satisfies alternative criteria established by the State Board; and (4) otherwise satisfies the requirements to graduate high school. (NRS 389.805) Section 43 of this bill allows a pupil to obtain a standard high school diploma if he fails the high school proficiency examination if he: (1) passes any two subject areas on the high school proficiency examination; (2) has a 2.0 grade point average; (3) satisfies alternative criteria established by the State Board; and (4) otherwise satisfies the requirements to graduate from high school.]~~

Section 47 of this bill requires the Department to establish a program of performance pay for voluntary participation by educational personnel and other school personnel and prescribes the requirements for determining eligibility for receipt of the enhanced compensation. Existing law prescribes certain requirements concerning the salaries of teachers. (NRS 391.160) Section ~~[58 of this bill requires the board of trustees of each school district to adjust the schedule of salaries to ensure that the starting salary of each licensed teacher who is initially hired on or after July 1, 2010, is at least $40,000 annually.]~~ *47.5 of this bill creates the Endowment Fund for a Program of Performance Pay.*

Section 70 of this bill ~~[creates the Commission to Oversee Educational Reform]~~ *requires the Legislative Commission* to monitor ~~[and report on]~~ the progress and effectiveness of the changes and reformations required by this bill.

WHEREAS, The Nevada Constitution requires the Legislature to provide for a system of public education in this State; and

WHEREAS, The pupils in this State are entitled to receive a world-class education which will ensure year-to-year progress and which will adequately prepare those pupils to enter postsecondary education and the workforce; and

WHEREAS, By enacting the Initiative for a World-Class Education in Nevada, the Legislature will ensure that each pupil receives an education that prepares him for higher education, a career and a lifetime of future success; and

WHEREAS, The Initiative for a World-Class Education in Nevada provides for systematic change to the educational structure of this State to facilitate progress toward attaining statewide goals and meeting measurable objectives to ensure the future success of the pupils enrolled in public schools in this State; and

WHEREAS, The future of this State is of the utmost importance to the members of the 75th Session of the Nevada Legislature, and educating pupils is vital to securing that future; now, therefore,

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 to ~~[5,]~~ 5.5, inclusive, of this act.

Sec. 2. ~~*[There is hereby created within the Department the:*~~

~~*1. Division of Assessment and Accountability;*~~

~~*2. Division of Curriculum and Instruction;*~~

~~*3. Division of Operations, Fiscal Services and Technology; and*~~

~~*4. Division of Innovation, Research and Professional Development.]*~~ *(Deleted by amendment.)*

Sec. 3. *1. The State Superintendent for Education shall* ~~*[direct the business of the Division]*~~ *appoint a Director of Assessment and Accountability.*

2. The Director of Assessment and Accountability must:

(a) Be a graduate of a 4-year accredited college or university.

(b) Have familiarity with the field of public education, as evidenced by:

(1) Sufficient college credits in education to qualify for a license to teach in a public school in this State; or

(2) Participation in recognized educational research and study.

3. The ~~*[Division]*~~ *Director of Assessment and Accountability may perform any duty required by the State Superintendent for Education and shall* ~~*[do]*~~ *:*

(a) Monitor the public schools and school districts in this State to ensure compliance with all state and federal programs relating to education, with a primary focus on academic and fiscal accountability;

(b) Review the budget submitted by each school district pursuant to NRS 387.303 and the quarterly publication of expenditures for each school district pursuant to NRS 387.320;

(c) Review the budget of each charter school submitted pursuant to NRS 386.600;

(d) Review the annual report of accountability prepared pursuant to NRS 385.3469;

(e) Review the report of accountability prepared by each school district pursuant to NRS 385.347, the accountability information submitted by each university school for profoundly gifted pupils pursuant to NRS 392A.073 and any other report of data relating to the achievement of pupils;

(f) On or before July 1 of each year, submit to the Legislative Committee on Education a report of the activities of the Director and the results and findings of the monitoring and reviews carried out pursuant to this section; and

(g) Perform such work as the State Superintendent may direct under the laws of the State.

4. No person may be appointed to the position of Director of Assessment and Accountability unless he meets the qualifications set forth in subsection 2.

Sec. 4. *1. The State Superintendent for Education shall ~~[direct the business of the Division]~~ appoint a Director of Innovation, Research and Professional Development.*

2. The Director of Innovation, Research and Professional Development must:

(a) Be a graduate of a 4-year accredited college or university.

(b) Have familiarity with the field of public education, as evidenced by:

(1) Sufficient college credits in education to qualify for a license to teach in a public school in this State; or

(2) Participation in recognized educational research and study.

(c) Have familiarity with the general field of public administration and personnel development, as evidenced by:

(1) College course work in public administration or personnel management; or

(2) Experience in the training and professional development of educational personnel.

3. The ~~[Division]~~ Director of Innovation, Research and Professional Development may perform any duty required by the State Superintendent for Education and shall do such work as the State Superintendent may direct under the laws of the State.

4. No person may be appointed to the position of Director of Innovation, Research and Professional Development unless he meets the qualifications set forth in subsection 2.

Sec. 5. *1. The Department shall adopt a model to measure and track from year to year the achievement and progress made by each pupil, each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, each public school, including, without limitation, each charter school, each school district and the State as a whole.*

2. The Department shall identify the measures of progress for inclusion in the model which must include, without limitation, the results of pupils on the examinations administered pursuant to NRS 389.550 and the results of pupils on the high school proficiency examination administered pursuant to NRS 389.015. The model must include other measures of progress identified by the Department, including, without limitation, graduation and attendance rates.

3. The model must be designed in a manner which allows the Department to:

(a) Identify each program for which a grant of money is made from the Account for Programs for Innovation and the Prevention of Remediation or otherwise provided through the State and which is being used by a public school; and

(b) Determine, through results of evaluations, the programs which are used by public schools and which are making improvements in the achievement and progress of pupils and the programs which are used by public schools and which are not making the same level of improvements.

4. The Department may contract with a qualified and independent consultant to assist the Department in the development and maintenance of the model.

Sec. 5.5. 1. The board of trustees of a school district, 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 plan to improve the achievement of pupils prepared by each individual school 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) 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 that incorporate educational technology in accordance with the plan established by the Department pursuant to NRS 388.795;

(b) Programs of peer mediation;

(c) The program used by the Geographic Alliance in Nevada;

(d) Programs for the certification of counselors offered in this State or offered by a national certification agency;

(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;

(f) Programs of career and technical education; 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:

(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 and 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 programs and other assistance for which each school expended the money; and

(c) An evaluation of the programs and other assistance for which each school expended the money, including, without limitation, the effectiveness of each program or assistance on the academic achievement and proficiency of pupils enrolled in the school.

Sec. 6. NRS 385.010 is hereby amended to read as follows:

385.010 1. A Department of Education is hereby created.

2. The Department consists of the State Board of Education, the State Board for Career and Technical Education and the *State* Superintendent [of Public Instruction.] *for Education.*

3. The *State* Superintendent ~~[of Public Instruction]~~ *for Education, who is the chief educational officer for the State,* is the executive head of the Department.

Sec. 7. NRS 385.014 is hereby amended to read as follows:

385.014 When required, the Attorney General shall give his opinion in writing and without fee to the State Board , ~~*[and]*~~ the *State* Superintendent ~~[of Public Instruction]~~ *for Education* and the Commission on Professional Standards in ~~*[for]*~~ Education on matters relating to the powers and duties of the Department.

Sec. 8. NRS 385.021 is hereby amended to read as follows:

385.021 1. The State Board consists of ~~[10 members]~~ *:*

(a) One member elected by the registered voters within ~~[the districts]~~ *each congressional district* described in NRS ~~[385.0225 to 385.0265,]~~ *304.060 to 304.120,* inclusive ~~[.]~~ *;*

(b) One member appointed by the Governor;

(c) ~~*[One member appointed by the Majority Leader of the Senate,]*~~ *Two members appointed by the Legislative Commission, who must not be* ~~*[a Legislator;*~~

~~*(d) One member appointed by the Speaker of the Assembly, who must not be a Legislator; and*~~

~~*(e)]*~~ *Legislators; and*

(d) One nonvoting member appointed by the Board of Regents of the University of Nevada.

2. Each member of the State Board *:*

(a) Elected pursuant to paragraph (a) of subsection 1 must be a resident of the district from which that member is elected.

~~[3. At the general election in 2002, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 2, 5, 6 and 10.~~

~~4. At the general election in 2004, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 1, 3, 4, 7, 8 and 9.~~

~~5.]~~ *(b) Appointed pursuant to paragraph (b)* ~~*[,]*~~ *or (c)* ~~*[or (d)]*~~ *of subsection 1 must* ~~*[have]*~~ *be a resident of this State and:*

(1) Have experience in prekindergarten, elementary, secondary or postsecondary education ; ~~*[, be a resident of this State and:*~~

~~*(1)]*~~ *(2) Have experience in public policy or public administration; or*

~~*[(2)]*~~ *(3) Be active in the business community or industry of this State.*

➥ *To the extent practicable, those members must be appointed from lists of nominations provided by associations and organizations in this State which*

are concerned with issues relating to public education, including, without limitation, associations representing educational personnel.

(c) Appointed pursuant to paragraph ~~[(e)]~~ (d) of subsection 1 must have experience in postsecondary education and be a resident of this State.

3. After the initial terms, each member serves a term of 4 years.

4. If a vacancy occurs on the State Board ~~[,]~~ *during the term of a member who was:*

(a) Elected pursuant to paragraph (a) of subsection 1, the Governor shall appoint a member to fill the vacancy until the next general election, at which election a member must be chosen for the balance of the unexpired term. The appointee must be a resident of the district where the vacancy occurs.

(b) Appointed pursuant to paragraph (b), (c) ~~[,]~~ or (d) ~~[or (e)]~~ of subsection 1, the vacancy must be filled in the manner of the original appointment.

~~[6.]~~ *5.* No member of the State Board may ~~[be elected to the office]~~ *serve* more than three ~~[times.]~~ *terms of office.*

Sec. 9. NRS 385.075 is hereby amended to read as follows:

385.075 The State Board shall ~~[establish policies]~~ *:*

1. Establish policies to govern the administration of all functions of the State relating to *the* supervision, management and control of public schools not conferred by law on some other agency.

2. Establish clearly defined goals and benchmarks for improving the achievement of pupils in this State, including, without limitation, goals for:

(a) Improving proficiency results in core academic subject areas;

(b) Increasing the number of pupils enrolled in middle schools and junior high schools in this State who enter high school with the skills necessary to succeed in high school;

(c) Improving the percentage of pupils who enroll in grade 9 in this State and who complete high school and obtain a standard diploma upon completion;

(d) Improving the performance of pupils in this State on standardized college entrance examinations;

(e) Increasing the percentage of pupils enrolled in high schools in this State who enter postsecondary educational institutions; and

(f) Reengaging disengaged youth who have dropped out of high school or who are at risk of dropping out of high school, including, without limitation, a mechanism for tracking and maintaining communication with those youth who have dropped out or who are at risk of doing so.

3. Establish a mechanism to measure the progress made toward meeting statewide educational goals, including, without limitation:

(a) Establishing measurable outcomes for the achievement of school districts ~~[,]~~ and charter schools;

(b) Developing a system to track progress toward those measurable objectives, including data on the results of pupils on the examinations

administered pursuant to NRS 389.550 and the high school proficiency examination; and

(c) Improving the capacity and maintenance of the automated system of accountability information for Nevada established pursuant to NRS 386.650.

4. Collaborate with the Department and the Nevada System of Higher Education to:

(a) Align the academic standards and curriculum developed for pupils enrolled in elementary and secondary education with the academic standards and curriculum developed for students enrolled in postsecondary educational institutions in this State; and

(b) Provide professional development and training through the Nevada System of Higher Education to assist the Department in ensuring that educational personnel are properly trained and that educational personnel are exposed to various classroom methodologies.

Sec. 10. NRS 385.110 is hereby amended to read as follows:

385.110 1. Except as otherwise provided in subsections 2 and 3, the State Board shall prescribe and cause to be enforced the courses of study for the public schools of this State. The courses of study prescribed and enforced by the State Board must comply with the standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520.

2. For those courses of study prescribed by the State Board:

(a) High schools may have modified courses of study, subject to the approval of the State Board; and

(b) Any high school offering courses normally accredited as being beyond the level of the 12th grade shall, before offering such courses, have them approved by the State Board.

3. A charter school is not required to offer the courses of study prescribed by the State Board except for those courses of study which are required for promotion to the next grade or graduation from high school.

Sec. 11. NRS 385.150 is hereby amended to read as follows:

385.150 1. The ~~[State Board]~~ *Governor* shall *nominate and, upon confirmation in accordance with subsection 3,* appoint the *State* Superintendent ~~[of Public Instruction]~~ *for Education* for a term of ~~[3]~~ ~~*[2]*~~ *4* years ~~[.]~~ *commencing on July 1 . ~~[of odd-numbered years.]~~* The ~~[State Board]~~ *Governor* may remove the *State* Superintendent ~~[of Public Instruction]~~ from office for inefficiency, neglect of duty, malfeasance in office or for other just cause. *The State Board may provide to the Governor a list of not less than three names of persons that the State Board determines are qualified for appointment as State Superintendent for Education. The Governor shall, to the extent practicable, nominate the State Superintendent for Education from the list of names provided by the State Board.*

2. A vacancy must be filled by the ~~[State Board]~~ *Governor nominating and, upon confirmation in accordance with subsection 3, appointed* for the remainder of the unexpired term.

3. *On or before February 1 ~~[of each odd-numbered year,]~~ , 2011, and on or before February 1 every 4 years thereafter, the Governor shall provide to the Director of the Legislative Counsel Bureau, for transmission to the Senate, the name of the person nominated as the State Superintendent for Education. The Senate shall, within the first 45 days of the next regularly scheduled session of the Legislature, consider the nominee and confirm or deny the nomination. If the Senate denies a nomination, the Governor may nominate another person as the State Superintendent for Education and immediately transmit the name to the Senate. The Senate shall, within 30 days after receiving each subsequent nomination, consider the nominee and confirm or deny the nomination. If the position of State Superintendent for Education is not filled during the regular session of the Legislature or becomes vacant while the Legislature is not in session, the Legislative Commission shall, within 30 days after receiving a nomination from the Governor, consider the nominee and confirm or deny the nomination. The Governor may not nominate as State Superintendent for Education a person who has been previously denied by either the Senate or the Legislative Commission.*

4. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* is in the unclassified service of the State.

Sec. 12. NRS 385.170 is hereby amended to read as follows:

385.170 The *State* Superintendent *for Education* shall not pursue any other business or occupation or hold any other office of profit . ~~[without the approval of the State Board of Education.]~~

Sec. 13. ~~[NRS 385.175 is hereby amended to read as follows:~~

~~385.175 The *State* Superintendent [of Public Instruction] *for Education* shall:~~

~~1. Execute, direct or supervise all administrative, technical and procedural activities of the Department in accordance with policies prescribed by the State Board.~~

~~2. Employ personnel for the positions approved by the State Board and necessary for the efficient operation of the Department.~~

~~3. Organize the Department in a manner *consistent with section 2 of this act*, which will assure efficient operation and service.~~

~~4. Maintain liaison and coordinate activities with other state agencies performing educational functions.~~

~~5. Perform such other duties as are prescribed by law.]~~ *(Deleted by amendment.)*

Sec. 14. NRS 385.190 is hereby amended to read as follows:

385.190 1. The *State* Superintendent ~~[of Public Instruction]~~ *for Education, in consultation with the ~~[Division]~~ Director of Innovation,*

Research and Professional Development or a staff member designated by ~~[him]~~ *the* ~~*[State Superintendent,]*~~ *Director,* shall:

(a) Convene teachers' conferences in the various sections of the State in such places and at such times as he deems advisable.

(b) Engage such conference lecturers and leaders as he deems advisable.

(c) Preside over and regulate the programs of all teachers' conferences.

2. No teachers' conference may continue more than 5 days.

3. The *State* Superintendent ~~[of Public Instruction]~~ *for Education, in consultation with the* ~~*[Division]*~~ *Director of Innovation, Research and Professional Development* or ~~[his designated]~~ *a* staff member *designated by the* ~~*[State Superintendent,]*~~ *Director,* shall convene, in such places and at such times as he may designate, conferences of school administrators.

4. The expenses of holding teachers' and administrators' conferences must be paid from the State Distributive School Account in the State General Fund, but the amount must not exceed $8,400 in any one biennium. The State Controller shall draw his warrants for such expenses upon the order of the *State* Superintendent ~~[of Public Instruction.]~~ *for Education.*

Sec. 15. NRS 385.290 is hereby amended to read as follows:

385.290 1. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* may appoint a Deputy Superintendent of ~~[Instructional, Research and Evaluative Services]~~ ~~*[the Division of]*~~ *Curriculum and Instruction* who:

(a) Holds a master's degree in school administration or a related subject from an accredited college or university.

(b) Has a minimum of 3 years of administrative experience which includes:

(1) Supervision and evaluation of staff;

(2) Development and administration of budgets; and

(3) Development of curriculum.

2. The Deputy Superintendent of ~~[Instructional, Research and Evaluative Services]~~ ~~*[the Division of]*~~ *Curriculum and Instruction* may perform any duty required of the *State* Superintendent ~~[of Public Instruction]~~ *for Education* during the absence of the *State* Superintendent and shall do such work as the *State* Superintendent may direct under the laws of the State.

3. No person may be appointed to the position of Deputy Superintendent of Curriculum and Instruction unless he meets the qualifications set forth in subsection 1.

Sec. 16. NRS 385.300 is hereby amended to read as follows:

385.300 1. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* may appoint a Deputy Superintendent ~~[for Administrative and]~~ ~~*[of the Division]*~~ *of Operations,* Fiscal Services ~~[.]~~ *and Technology.*

2. The Deputy Superintendent ~~[for Administrative and]~~ ~~*[of the Division]*~~ *of Operations,* Fiscal Services *and Technology* must:

(a) Be a graduate of a 4-year accredited college or university.

(b) Have familiarity with the field of education, as evidenced by:

(1) Sufficient college credits in education to qualify for a license to teach in a high school in this state; or

(2) Participation in recognized educational research and study.

(c) Have familiarity with the general field of public administration and budgeting, as evidenced by:

(1) Sufficient college credits to qualify for a minor in public administration, government management or business management; or

(2) Experience in the preparation of governmental budgets or in governmental accounting or research.

3. No person may be appointed to the position of Deputy Superintendent ~~[for Administrative and]~~ ~~*[of the Division]*~~ *of Operations,* Fiscal Services *and Technology* unless he has the qualifications outlined in subsection 2.

Sec. 17. NRS 385.310 is hereby amended to read as follows:

385.310 The Deputy Superintendent ~~[for Administrative and]~~ ~~*[of the Division]*~~ *of Operations,* Fiscal Services ~~[,]~~ *and Technology,* under the direction of the *State* Superintendent ~~[of Public Instruction,]~~ *for Education,* shall:

1. Determine the apportionment of all state school money to schools of the State as prescribed by law.

2. Develop for public schools of the State a uniform system of budgeting and accounting. The system must provide for the separate reporting of expenditures for each:

(a) School district; and

(b) School within a school district.

➥ Upon approval of the State Board, the system is mandatory for all public schools in this State and must be enforced as provided in subsection 2 of NRS 385.315.

3. Carry on a continuing study of school finance in the State, particularly the method by which schools are financed on the state level, and make such recommendations to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* for submission to the State Board as he deems advisable.

4. Recommend to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* for submission to the State Board such changes in budgetary and financial procedures as his studies may show to be advisable.

5. Perform such other statistical and financial duties pertaining to the administration and finances of the schools of the State as may be required by the *State* Superintendent ~~[of Public Instruction.]~~ *for Education.*

6. Prepare for the *State* Superintendent ~~[of Public Instruction]~~ *for Education* the biennial budgets of the Department for consideration by the State Board and submission to the Governor.

Sec. 18. NRS 385.315 is hereby amended to read as follows:

385.315 In addition to his other duties, the Deputy Superintendent ~~[for Administrative and]~~ ~~*[of the Division]*~~ *of Operations,* Fiscal Services ~~[,]~~ *and Technology,* under the direction of the *State* Superintendent ~~[of Public Instruction,]~~ *for Education,* shall:

1. Investigate any claim against any school fund or separate account established under NRS 354.603 whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the county auditor. If, upon investigation, the Deputy Superintendent finds that any such claim is unearned, illegal or unreasonably excessive, he shall notify the county auditor and the clerk of the board of trustees who drew the order for the claim, stating the reasons in writing why the order is unearned, illegal or excessive. If so notified, the county auditor shall not draw his warrant in payment of the claim nor shall the board of trustees draw a check or order in payment of the claim from a separate account established under NRS 354.603. If the Deputy Superintendent finds that any protested claim is legal and actually due the claimant, he shall authorize the county auditor or the board of trustees to draw his warrant or its check or order on an account established under NRS 354.603 for the claim, and the county auditor or the board of trustees shall immediately draw his warrant or its check or order in payment of the claim.

2. Inspect *and, if he determines necessary, audit* the record books and accounts of boards of trustees, and enforce the uniform method of keeping the financial records and accounts of school districts.

3. Inspect *and, if he determines necessary, audit* the school fund accounts of the county auditors of the several counties, and report the condition of the funds of any school district to the board of trustees thereof.

4. Inspect *and, if he determines necessary, audit* the separate accounts established by boards of trustees under NRS 354.603, and report the condition of the accounts to the respective boards of county commissioners and county treasurers.

Sec. 19. NRS 385.320 is hereby amended to read as follows:

385.320 The Deputy Superintendent *of Curriculum and Instruction, the Deputy Superintendent of Operations, Fiscal Services and Technology, the Director of Assessment and Accountability and the Director* of ~~[Instructional, Research and Evaluative Services and the Deputy Superintendent for Administrative and Fiscal Services:]~~ ~~*[each Division:]*~~ *Innovation, Research and Professional Development:*

1. Are ~~*[Is]*~~ in the unclassified service of the State.

2. Except as otherwise provided in NRS 284.143, shall each devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

Sec. 20. NRS 385.330 is hereby amended to read as follows:

385.330 1. Professional staff and other personnel appointed by the *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall perform such duties as are assigned by the *State* Superintendent.

2. The *State* Superintendent ~~[of Public Instruction,]~~ *for Education,* under the policies of the State Board, shall locate the offices of professional staff and other personnel ~~[where]~~ *:*

(a) Where the needs of the education program can best be served ~~[.]~~ *; and*

(b) To reflect the geographic diversity of this State.

Sec. 21. NRS 385.34691 is hereby amended to read as follows:

385.34691 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

(1) Employees of the Department;

(2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; ~~[and]~~

(4) At least one representative of the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516, ~~*[a regional training program for the professional development of teachers and administrators created pursuant to NRS 391.512,]*~~ appointed by the Council; ~~*[State Board;]*~~ and

(5) A representative from the Nevada Youth Legislative Issues Forum created by NRS 385.515, appointed by the Chairman of the Forum.

(b) May be prepared in consultation with:

(1) Representatives of ~~[institutions of higher education;]~~ *the colleges of education in the Nevada System of Higher Education;*

(2) Representatives of regional educational laboratories;

(3) Representatives of outside consultant groups;

(4) Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;

(5) The Bureau; and

(6) ~~*[(5)]*~~ Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3469 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 common among the school districts or charter schools in this State, as 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 set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in public schools in this State, 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 , *improve the percentage of pupils who graduate with a high school diploma* and reduce the number of pupils who drop out of school;

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

(4) Manage effectively the discipline of pupils; and

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

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) *The availability of programs of career and technical education in public schools in this State;*

(2) The requirements for admission to an institution of ~~[higher]~~ *postsecondary* education and the opportunities for financial aid;

~~[(2)]~~ *(3)* The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.938, inclusive; and

~~[(3)]~~ *(4)* The need for a pupil to make informed decisions about his curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification ~~[, by category,]~~ of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively ~~[.]~~ *, including, without limitation, a description of the duties of those employees relating to the achievement of pupils and the support of the success of pupils in the classroom.*

(g) ~~[For]~~ *A timeline for carrying out the plan, including benchmarks that indicate the rate of improvement which must be attained annually and, 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.

(h) 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 , *improving*

the rate of pupils who graduate with a high school diploma and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(l) Strategies to increase the percentage of classes that are taught by highly qualified teachers in low-poverty schools.

3. The State Board shall:

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

(b) *Examine the timeline for implementing the plan and the timeline for implementing each provision of the plan to determine whether the annual benchmarks have been attained;*

(c) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that ~~[the]~~ *:*

(1) The benchmarks set forth in the plan are being attained in a timely manner; and

(2) The plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.

4. On or before December 15 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

(a) Governor;

(b) Committee;

(c) Bureau;

(d) Board of Regents of the University of Nevada;

(e) ~~[Council to Establish Academic Standards for Public Schools created by NRS 389.510;~~

~~(f)]~~ Board of trustees of each school district; and

~~[(g)]~~ *(f)* Governing body of each charter school.

5. On or before February 1 of each odd-numbered year, the State Board shall submit the plan or the revised plan, as applicable, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Sec. 22. ~~[NRS 385.3782 is hereby amended to read as follows:~~

~~385.3782 *As used in NRS 385.3782 to 385.379, inclusive, unless the context otherwise requires,* "Account" means the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.]~~ *(Deleted by amendment.)*

Sec. 23. ~~[NRS 385.3785 is hereby amended to read as follows:~~

~~385.3785 1. The [Commission]~~ *State Board* ~~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; and~~

~~(4) Any other information that the [Commission]~~ *State Board* ~~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. The [Commission]~~ *State Board* ~~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]~~ *State Board* ~~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,] *State Board or by an advisory committee appointed pursuant to subsection 9*, money must not be allocated from the Account for a grant until the entire membership of the [Commission] *State Board* 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 the plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;~~

~~(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] *State Board* 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] *State Board* shall comply with the requirements of subsection 1.~~

~~3. The [Commission] *State Board* 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] *State Board* 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~~ [,] ~~*; and*~~

~~*(c) The status of the public schools in achieving the goals and measurable outcomes prescribed by the State Board pursuant to NRS 385.075,*~~

~~→ for consideration by the [Commission] *State Board* 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 the plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;~~

~~(b) Is developed in accordance with the criteria established by the [Commission;] *State Board;* 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] *State Board* 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.~~

~~*9. The State Board may appoint an advisory committee composed of six members who are qualified and who represent the ethnic and geographic diversity of the State to carry out the provisions of this section. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.*~~ *(Deleted by amendment.)*

Sec. 24. ~~[NRS 385.3787 is hereby amended to read as follows:~~

~~385.3787 1. A public school or consortium of public schools that receives an allocation of money from the Account shall:~~

~~(a) Account for the money separately;~~

~~(b) Use the money to supplement and not replace the money that would otherwise be expended by the school district or public school for the achievement of pupils in kindergarten through grade 6 or pupils in grades 7 through 12, as applicable; and~~

~~(c) Submit an evaluation of the effectiveness of the allocation in improving the achievement of pupils in kindergarten through grade 6 or pupils in grades 7 through 12, as applicable, in accordance with the criteria for evaluation established by the [Commission]~~ *State Board* ~~pursuant to NRS 385.3785.~~

~~2. A public school or consortium of public schools that receives an allocation of money from the Account shall not:~~

~~(a) Use the money to settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district or public school and the school district or public school, as applicable.~~

~~(b) Use the money to adjust the schedules of salaries and benefits of the employees of the school district or public school, as applicable.]~~ *(Deleted by amendment.)*

Sec. 25. ~~[NRS 385.3789 is hereby amended to read as follows:~~

~~385.3789 1. The [Commission]~~ *State Board* ~~shall prepare an annual report that describes the distribution of money to the public schools and consortiums of public schools and the programs for which money was allocated from the Account, including, without limitation, the total amount of money allocated:~~

~~(a) To each consortium of public schools, with a designation of which public schools are included in each consortium;~~

~~(b) To each public school;~~

~~(c) To schools included on the list of priorities of schools provided by the Department pursuant to NRS 385.3785;~~

~~(d) For programs that provide services directly to pupils for remediation and innovation, including, without limitation, instruction, instructional materials and support materials;~~

~~(e) For programs that provide instructional support and have an indirect effect on pupils, including, without limitation, the provision of professional development for educational personnel and the employment of administrators;~~ [and]

~~(f) For each program, including, without limitation:~~

~~(1) A description of the program, including, without limitation, whether the program is available commercially;~~

~~(2) Whether the~~ [Commission] ~~*State Board* considers the program to be innovative;~~

~~(3) Whether the program includes the provision of professional development other than professional development that is related to carrying out a program that provides services directly to pupils;~~

~~(4) The costs to implement the program; and~~

~~(5) The full-time personnel necessary to implement the program, if any~~ [.] ~~*; and*~~

~~*(g) For evaluations of the programs for which money was allocated from the Account pursuant to subsection 3 of NRS 385.379.*~~

~~➥ The report must be submitted on or before September 1 of each year to the entities identified in subsection 3.~~

~~2. The~~ [Commission] ~~*State Board* shall:~~

~~(a) Prepare an annual report that describes:~~

~~(1) The activities of the~~ [Commission;] ~~*State Board relating to the provisions of NRS 385.3782 to 385.379, inclusive;*~~

~~(2) An analysis of the progress of *and strategies proposed by* the public schools in carrying out the plans to improve the achievement of pupils; and~~

~~(3) An analysis of the progress of *and strategies proposed by* the public schools and consortiums of public schools that received an allocation of money from the Account in improving the achievement of pupils.~~

~~(b) Submit the report on or before January 31 of each year to the entities identified in subsection 3.~~

~~3. The~~ [Commission] ~~*State Board* shall submit the reports required by this section to the:~~

~~(a)~~ [State Board;

~~(b)~~] ~~Governor;~~

[(c)] ~~*(b)* Committee;~~

[(d)] ~~*(c)* Bureau;~~

[(e)] ~~*(d)* Interim Finance Committee; and~~

[(f)] ~~*(e)* Board of trustees of each school district.~~

~~4. The Legislative Auditor shall audit biennially the programs for which public schools and consortiums of public schools receive an allocation of money. The audit may include a representative sample of programs, based upon geographic location and type of program. The Legislative Auditor shall~~

~~report the results of each biennial audit to the entities prescribed in subsection 3.]~~ *(Deleted by amendment.)*

Sec. 26. ~~[NRS 385.379 is hereby amended to read as follows:~~

~~385.379 1. The Account for Programs for Innovation and the Prevention of Remediation is hereby created in the State General Fund, to be administered by the *State* Superintendent [of Public Instruction.]~~ *for Education.* ~~The *State* Superintendent [of Public Instruction]~~ *for Education* ~~may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2 or 3. The interest and income earned on the sum of:~~

~~(a) The money in the Account; and~~

~~(b) Unexpended appropriations made to the Account from the State General Fund,~~

~~→ must be credited to the Account. 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.~~

~~2. Except as otherwise provided in [NRS 385.3784 and] subsection 3, the money in the Account may only be used for the allocation of money to public schools and consortiums of public schools whose applications are approved by the [Commission]~~ *State Board* ~~pursuant to NRS 385.3785.~~

~~3. Upon the request of the [Commission:]~~ *State Board:*

~~(a) Not more than $50,000 in the Account may be used each biennium to pay:~~

~~(1) The expenses incurred by members of the [Commission]~~ *State Board* ~~to travel to the public schools and consortiums of public schools that received allocations of money from the Account; and~~

~~(2) The costs incurred by the [Commission]~~ *State Board* ~~to hold meetings or conferences for representatives of public schools and consortiums of schools that received allocations of money from the Account to discuss or display, or both, programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.~~

~~(b) Not more than $450,000 in the Account may be used each biennium to pay for an evaluation of the programs for which money was allocated from the Account. If the [Commission]~~ *State Board* ~~uses money in the Account for such an evaluation, the [Commission]~~ *State Board* ~~shall ensure that:~~

~~(1) A request for proposals is issued and a qualified, independent consultant is selected to conduct the evaluation;~~

~~(2) Upon selection of the consultant, the [Commission]~~ *State Board* ~~receives approval of the consultant and the plan for the evaluation from the Committee;~~

~~(3) The evaluation is designed to determine the effectiveness of the programs for which money was allocated from the Account in improving the achievement of pupils;~~

~~(4) The evaluation includes an identification of the programs for which money was allocated from the Account that did not improve the achievement of pupils as described in the approved application for the grant;~~

~~(5) The evaluation includes an identification of the public schools and consortiums of public schools that did not implement the programs for which money was allocated from the Account as described in the approved application for the grant; and~~

~~(6) The evaluation includes a compilation and review of each evaluation required to be submitted by public schools and consortiums of public schools pursuant to NRS 385.3787.~~] *(Deleted by amendment.)*

Sec. 27. 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]~~ ~~*[State Board 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. 28. 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;

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 *State Board and 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 State Board and* 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. 28.5. *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, 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 *State* Superintendent ~~[of Public Instruction]~~ *for Education* 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 *State* Superintendent ~~[of Public Instruction]~~ *for Education* pursuant to subsection 3; and

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

3. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* 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. 29. NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed

persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(b) The count of pupils computed pursuant to paragraph (a) of subsection 1 of NRS 387.1233.

(c) The school district's actual expenditures in the fiscal year immediately preceding the report.

(d) The school district's proposed expenditures for the current fiscal year.

(e) The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

(f) The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 ~~*[3, 4 or 5]*~~ of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 ~~*[3]*~~ of NRS 391.160, the board of trustees shall submit a supplemental report to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

(g) The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

(h) The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

(i) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

(j) The expenditures from the account created pursuant to subsection ~~[3]~~ *4* of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year, and the specific amount spent on books and computer hardware and software for each grade level in the district.

2. On or before November 25 of each year, the *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel

Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the *State* Superintendent ~~[of Public Instruction:]~~ *for Education:*

(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;

(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic support guarantee for inclusion in the biennial budget request to the Department of Administration; and

(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. The request prepared pursuant to subsection 3 must:

(a) Be presented by the *State* Superintendent ~~[of Public Instruction]~~ *for Education* to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.

Sec. 30. ~~[NRS 388.787 is hereby amended to read as follows:~~

~~388.787 *As used in NRS 388.787 to 388.805, inclusive, unless the context otherwise requires,* "Committee" means the Legislative Committee on Education created pursuant to NRS 218.5352.]~~ *(Deleted by amendment.)*

Sec. 31. NRS 388.795 is hereby amended to read as follows:

388.795 1. The ~~[Commission]~~ ~~*[State Board]*~~ *Department* shall establish a plan for the use of educational technology in the public schools of

this State. In preparing the plan, the [~~Commission~~] *[~~State Board~~]* *Department* 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;~~] *5;* and

(e) Any other information that the [~~Commission~~] *[~~State Board~~]* *Department* or the *Legislative* Committee *on Education* deems relevant to the preparation of the plan.

2. The plan established by the [~~Commission~~] *[~~State Board~~]* *Department* 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~~] *[~~State Board~~]* *Department* in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) *[~~(b)~~]* The superintendent of schools of each school district.

(d) *[~~(c)~~]* The [~~Department~~] [~~.~~

~~5.]~~ [~~, *including specifically the Division*~~] *Deputy Superintendent of Operations, Fiscal Services and Technology.*

(e) The governing body of each charter school.

4. The [~~Commission~~] *[~~State Board~~]* *Department* 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 charter schools pursuant to paragraph (a) of subsection 2 of section 5.5 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]~~ *receive* an allocation of money from the ~~[Commission]~~ ~~*[State Board]*~~ *Department pursuant to paragraph (a) of subsection 2 of section 5.5 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 district ~~[.]~~ *or charter school.*

(d) Submit to the Governor ~~[,]~~ *and* the *Legislative* Committee ~~[and the Department]~~ *on Education* 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]~~ *the Department* 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 *Legislative* Committee ~~[and the Department]~~ *on Education* as the ~~[Commission]~~ ~~*[State Board]*~~ *Department* deems necessary.

~~[6.]~~ *5.* During the spring semester of each even-numbered school year, the ~~[Commission]~~ ~~*[State Board]*~~ *Department* shall conduct an assessment of the needs of each school district *and charter school* relating to educational technology. In conducting the assessment, the ~~[Commission]~~ ~~*[State Board]*~~ *Department* 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.]~~ ~~*[State Board.]*~~ *Department.*

➥ The ~~[Commission]~~ ~~*[State Board]*~~ *Department* shall submit a final written report of the assessment to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* on or before April 1 of each even-numbered year.

~~[7.]~~ *6.* The *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall prepare a written compilation of the results of the assessment conducted

by the ~~[Commission]~~ ~~*[State Board]*~~ *Department* 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.]~~ *7.* The ~~[Commission]~~ ~~*[State Board]*~~ *Department* may appoint an advisory committee composed of *six* members ~~[of the Commission or other qualified persons]~~ *who are qualified and who represent the ethnic and geographic diversity of this State* to provide recommendations to the ~~[Commission]~~ ~~*[State Board]*~~ *Department* 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]~~ ~~*[State Board]*~~ *Department* and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

~~[9.]~~ *8.* 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. 32. ~~[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 *State* Superintendent [of Public Instruction.] *for Education*. 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 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] *State Board* for use in classrooms.]~~ *(Deleted by amendment.)*

Sec. 33. ~~[NRS 388.805 is hereby amended to read as follows:~~

~~388.805 The [Department shall, in consultation with the Commission,] *State Board shall* adopt regulations that establish a program whereby school districts may apply to the [Commission on Educational Technology] *State Board* for money from the Trust Fund for Educational Technology.]~~ *(Deleted by amendment.)*

Sec. 34. NRS 389.012 is hereby amended to read as follows:

389.012 1. The State Board shall:

(a) In accordance with guidelines established by the National Assessment Governing Board and National Center for Education Statistics and in accordance with 20 U.S.C. §§ 6301 et seq. and the regulations adopted

pursuant thereto, adopt regulations requiring the schools of this State that are selected by the National Assessment Governing Board or the National Center for Education Statistics to participate in the examinations of the National Assessment of Educational Progress.

(b) Report the results of those examinations to the:

(1) Governor;

(2) Board of trustees of each school district of this State;

(3) Legislative Committee on Education created pursuant to NRS 218.5352; and

(4) Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356.

(c) Include in the report required pursuant to paragraph (b) an analysis and comparison of the results of pupils in this State on the examinations required by this section with:

(1) The results of pupils throughout this country who participated in the examinations of the National Assessment of Educational Progress; and

(2) The results of pupils on the achievement and proficiency examinations administered pursuant to this chapter.

2. If the report required by subsection 1 indicates that the percentage of pupils enrolled in the public schools in this State who are proficient on the National Assessment of Educational Progress differs by more than 10 percent of the pupils who are proficient on the examinations administered pursuant to NRS 389.550 and the high school proficiency examination administered pursuant to NRS 389.015, the Department shall prepare a written report describing the discrepancy. The report must include, without limitation, a comparison and evaluation of:

(a) The standards of content and performance for English and mathematics established pursuant to NRS 389.520 with the standards for English and mathematics that are tested on the National Assessment.

(b) The standards for proficiency established for the National Assessment with the standards for proficiency established for the examinations that are administered pursuant to NRS 389.550 and the high school proficiency examination administered pursuant to NRS 389.015.

3. The report prepared by the Department pursuant to subsection 2 must be submitted to the:

(a) Governor;

(b) Legislative Committee on Education;

(c) Legislative Bureau of Educational Accountability and Program Evaluation; and

(d) ~~[Council to Establish Academic Standards for Public Schools.]~~ *State Board.*

4. The ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* shall review and evaluate the report provided to the ~~[Council]~~ *State Board* pursuant to subsection 3 to identify any discrepancies in the standards of content and performance established by the ~~[Council]~~ *State*

Board that require revision and a timeline for carrying out the revision, if necessary. The ~~[Council]~~ *State Board* shall submit a written report of its review and evaluation to the Legislative Committee on Education and Legislative Bureau of Educational Accountability and Program Evaluation.

Sec. 35. ~~[NRS 389.015 is hereby amended to read as follows:~~

~~389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:~~

~~(a) Reading;~~

~~(b) Mathematics; and~~

~~(c) Science.~~

~~2. The examinations required by subsection 1 must be:~~

~~(a) Administered before the completion of grades 4, 7, 10 and 11.~~

~~(b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.~~

~~(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.~~

~~(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:~~

~~(1) The plan adopted by the Department; and~~

~~(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.~~

~~(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.~~

~~3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the *State* Superintendent [of Public Instruction] *for Education* shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify~~

~~that the results for each pupil have been provided to the parent or legal guardian of the pupil:~~

~~(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or~~

~~(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.~~

~~→ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.~~

~~4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, he may be promoted to the next higher grade, but the results of his examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section 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 pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.~~

~~5. If a pupil fails to pass the high school proficiency examination, he must not be graduated unless he:~~

~~(a) Is able, through remedial study, to pass the proficiency examination; or~~

~~(b) Passes *at least two of* the subject areas [of mathematics and reading] tested on the proficiency examination, has at least a 2.75 *[2.0]* grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805,~~

~~→ but he may be given a certificate of attendance, in place of a diploma, if he has reached the age of 18 years.~~

~~6. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:~~

~~(a) To the extent necessary for administering and evaluating the examinations.~~

~~(b) That a disclosure may be made to a:~~

~~(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his duties;~~

~~(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his duties;~~

~~(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his duties; and~~

~~(4) Director of testing of a school district to the extent that it is necessary for the performance of his duties.~~

~~(c) That specific questions and answers may be disclosed if the *State* Superintendent [of Public Instruction] *for Education* determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.~~

~~(d) As required pursuant to NRS 239.0115.]~~ *(Deleted by amendment.)*

Sec. 36. NRS 389.019 is hereby amended to read as follows:

389.019 Except as otherwise provided in NRS 389.180, boards of trustees of school districts in this State shall enforce in schools:

1. The standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* and the courses of study related to those standards; and

2. The courses of study prescribed and adopted by the State Board.

Sec. 37. NRS 389.520 is hereby amended to read as follows:

389.520 1. The ~~[Council]~~ *State Board* shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection 2, based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English, including reading, composition and writing;

(2) Mathematics;

(3) Science;

(4) Social studies, which includes only the subjects of history, geography, economics and government;

(5) The arts;

(6) Computer education and technology;

(7) Health; and

(8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The ~~[Council]~~ *State Board* shall establish *and adopt* standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The ~~[Council]~~ *State Board* shall establish *and adopt* standards of content and performance for the grade levels selected by the ~~[Council]~~ *State Board* for the other courses of study prescribed in subsection 1.

3. ~~[The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:~~

~~(a) Adopt the standards for each course of study, as submitted by the Council; or~~

~~(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.~~

~~4. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:~~

~~(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and~~

~~(b) Return the standards or the revised standards, as applicable, to the State Board.~~

~~➥ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.~~

~~5. The Council shall work in cooperation with the]~~ *The* State Board ~~[to]~~ *shall* prescribe the examinations required by NRS 389.550.

Sec. 38. NRS 389.530 is hereby amended to read as follows:

389.530 ~~[1. The Department shall provide:~~

~~(a) Administrative support;~~

~~(b) Equipment; and~~

~~(c) Office space,~~

~~➥ as is necessary for the Council to carry out its duties.~~

~~2. The Council may request assistance from any agency of this state if the assistance is necessary for the Council to carry out its duties.]~~ *The State Board may appoint an advisory committee composed of six members who are qualified and who represent the ethnic and geographic diversity of this State to carry out the provisions of NRS 389.520 to 389.570, inclusive. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.*

Sec. 39. NRS 389.540 is hereby amended to read as follows:

389.540 The board of trustees of each school district shall conduct a periodic review of the courses of study offered in the public schools of the school district to determine whether the courses of study comply with the

standards of content and performance established by the ~~[Council]~~ *State Board* pursuant to NRS 389.520 and if revision of the courses of study is necessary to ensure compliance.

Sec. 40. NRS 389.550 is hereby amended to read as follows:

389.550 1. The State Board shall ~~[, in consultation with the Council,]~~ prescribe examinations that comply with 20 U.S.C. § 6311(b)(3) and that measure the achievement and proficiency of pupils:

(a) For grades 3, 4, 5, 6, 7 and 8 in the standards of content established by the ~~[Council]~~ *State Board* for the subjects of English and mathematics.

(b) For grades 5 and 8, in the standards of content established by the ~~[Council]~~ *State Board* for the subject of science.

➥ The examinations prescribed pursuant to this subsection must be written, developed, printed and scored by a nationally recognized testing company.

2. In addition to the examinations prescribed pursuant to subsection 1, the State Board shall ~~[, in consultation with the Council,]~~ prescribe a writing examination for grades 5 and 8 and for the high school proficiency examination.

3. The board of trustees of each school district and the governing body of each charter school shall administer the examinations prescribed by the State Board. The examinations must be:

(a) Administered to pupils in each school district and each charter school at the same time during the spring semester, as prescribed by the State Board.

(b) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the school districts and individual schools to ensure compliance with the uniform procedures.

(c) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

Sec. 41. NRS 389.560 is hereby amended to read as follows:

389.560 1. The State Board shall adopt regulations that require the board of trustees of each school district and the governing body of each charter school to submit to the *State* Superintendent ~~[of Public Instruction,]~~ *for Education,* the Department and the ~~[Council,]~~ *State Board,* in the form and manner prescribed by the Superintendent, the results of the examinations administered pursuant to NRS 389.550. The State Board shall not include in the regulations any provision that would violate the confidentiality of the test scores of an individual pupil.

2. The results of the examinations must be reported for each school, including, without limitation, each charter school, school district and this State, as follows:

(a) The percentage of pupils who have demonstrated proficiency, as defined by the Department, and took the examinations under regular testing conditions; and

(b) The percentage of pupils who have demonstrated proficiency, as defined by the Department, and took the examinations with modifications or accommodations, if such reporting does not violate the confidentiality of the test scores of any individual pupil.

3. Not later than 10 days after the Department receives the results of the examinations, the Department shall transmit a copy of the results to the Legislative Bureau of Educational Accountability and Program Evaluation in a manner that does not violate the confidentiality of the test scores of any individual pupil.

4. On or before July 1 of each year, each school district and each charter school shall report to the Department the following information for each examination administered in the public schools in the school district or charter school:

(a) The examination administered;

(b) The grade level or levels of pupils to whom the examination was administered;

(c) The costs incurred by the school district or charter school in administering each examination; and

(d) The purpose, if any, for which the results of the examination are used by the school district or charter school.

➥ On or before September 1 of each year, the Department shall transmit to the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau the information submitted to the Department pursuant to this subsection.

5. The superintendent of schools of each school district and the governing body of each charter school shall certify that the number of pupils who took the examinations is equal to the number of pupils who are enrolled in each school in the school district or in the charter school who are required to take the examinations.

6. In addition to the information required by subsection 4, the *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall:

(a) Report the number of pupils who were not exempt from taking the examinations but were absent from school on the day that the examinations were administered; and

(b) Reconcile the number of pupils who were required to take the examinations with the number of pupils who were exempt from taking the examinations or absent from school on the day that the examinations were administered.

Sec. 42. NRS 389.570 is hereby amended to read as follows:

389.570 1. The ~~[Council]~~ *State Board* shall review the results of pupils on the examinations administered pursuant to NRS 389.550, including, without limitation, for each school in a school district and each charter school that is located within a school district, a review of the results for the current school year and a comparison of the progress, if any, made by the pupils enrolled in the school from preceding school years.

2. After the completion of the review pursuant to subsection 1, the ~~[Council]~~ *State Board* shall evaluate:

(a) Whether the standards of content and performance established by the ~~[Council]~~ *State Board* require revision; and

(b) The success of pupils, as measured by the results of the examinations, in achieving the standards of performance established by the ~~[Council.]~~ *State Board.*

3. The ~~[Council]~~ *State Board* shall report the results of the evaluation conducted pursuant to subsection 2 to the ~~[State Board and the]~~ Legislative Committee on Education.

Sec. 43. ~~[NRS 389.805 is hereby amended to read as follows:~~

~~389.805 1. A pupil must receive a standard high school diploma if he:~~

~~(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or~~

~~(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety [not less than three times before beginning grade 12 and the pupil:]~~ ~~*and:*~~

~~(1) Passes *at least two of* the subject areas [of mathematics and reading] on the proficiency examination;~~

~~(2) Has an overall grade point average of not less than 2.75 *[2.0]* on a 4.0 grading scale;~~

~~(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection 3; and~~

~~(4) Otherwise satisfies the requirements for graduation from high school.~~

~~2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if he satisfies the requirements set forth in his individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).~~

~~3. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:~~

~~(a) An essay;~~

~~(b) A senior project; or~~

~~(c) A portfolio of work,~~

~~*~~ ~~or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.~~] *(Deleted by amendment.)*

Sec. 44. NRS 390.140 is hereby amended to read as follows:

390.140 1. The State Board shall make the final selection of all textbooks to be used in the public schools in this State, except for charter schools. If a textbook proposed for selection is in a subject area for which standards of content have been established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520, the State Board shall not select the textbook unless the State Board determines that the textbook adequately supports the standards for that subject area.

2. A textbook must not be selected by the State Board pursuant to subsection 1 for use in the public schools in classes in literature, history or social sciences unless it accurately portrays the cultural and racial diversity of our society, including lessons on the contributions made to our society by men and women from various racial and ethnic backgrounds.

Sec. 45. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 46 , ~~[and]~~ 47 *and 47.5* of this act.

Sec. 46. ~~*[The State Board may appoint an advisory committee composed of six members who are qualified and who represent the ethnic and geographic diversity of this State to advise the State Board in carrying out the provisions of this chapter. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.]*~~ *(Deleted by amendment.)*

Sec. 47. *1. Within the limits of ~~[available]~~ money ~~[,]~~ available from the Endowment Fund for a Program of Performance Pay created pursuant to section 47.5 of this act or otherwise available for that purpose, the Department shall establish a program of performance pay for voluntary participation by licensed educational personnel and other school personnel of public schools that demonstrate improvement and exceptional performance.*

2. The program must prescribe a formula for determining the classroom performance of each teacher who voluntarily participates in the program, which must give equal consideration to:

(a) The achievement and progress made by the pupils enrolled in the teacher's classroom, as measured by the model adopted pursuant to section 5 of this act ~~[,]~~ and the information obtained from the automated system of accountability information for Nevada maintained pursuant to NRS 386.650; and

(b) The professional accomplishments of the teacher, as evidenced by:

(1) Evaluations of the teacher conducted in accordance with the policies adopted pursuant to NRS 391.3125;

(2) The participation of the teacher in professional development and other training;

(3) The results of peer reviews and parent satisfaction surveys concerning the school, if enough completed surveys are available to assess performance; and

(4) Any other measure of the professional accomplishments of the teacher deemed appropriate by the Department.

3. The program must prescribe a formula for determining the performance of each public school for purposes of awarding enhanced performance pay to other school personnel who voluntarily participate in the program and who are not teachers. The formula must give equal consideration to:

(a) The achievement and progress of pupils enrolled in the public school which is tracked from year to year to determine whether the school has made progress in the achievement of pupils, as measured by the model adopted pursuant to section 5 of this act ~~[;]~~ *and the information obtained from the automated system of accountability information for Nevada maintained pursuant to NRS 386.650; and*

(b) The professional accomplishments of the school personnel, as evidenced by:

(1) The participation of the school personnel in development and training in their area of employment;

(2) The results of parent satisfaction surveys concerning the school, if enough completed surveys are available to assess the performance of the school; and

(3) Any other measure of the accomplishments of school personnel deemed appropriate by the Department.

4. The Department shall provide enhanced compensation to licensed educational personnel and other school personnel who voluntarily participate in the program and, as calculated pursuant to this section, are in the top quartile of progress in pupil achievement and professional accomplishment.

Sec. 47.5. *1. There is hereby created the Endowment Fund for a Program of Performance Pay to be administered by the Department.*

2. The money in the Fund must be used to provide enhanced compensation to licensed educational personnel and other school personnel who voluntarily participate in the program of performance pay established pursuant to section 47 of this act.

3. The Department shall deposit in the Fund any money received for the purpose of carrying out the provisions of section 47 of this act.

4. Any interest or other income earned on the money in the Fund must be credited to the Fund.

5. Any money that remains in the 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 to the next fiscal year.

Sec. 48. ~~[NRS 391.008 is hereby amended to read as follows:~~

~~391.008 1. [~~"Paraprofessional"~~] *As used in this chapter, unless the context otherwise requires, "paraprofessional"* means a person who is employed by and assigned by a school district or charter school to:~~

~~(a) Provide one-on-one tutoring for a pupil;~~

~~(b) Assist with the management of a classroom, including, without limitation, organizing instructional materials;~~

~~(c) Provide assistance in a computer laboratory;~~

~~(d) Conduct parental involvement activities in conjunction with one or more duties set forth in this subsection;~~

~~(e) Provide support in a library or media center;~~

~~(f) Except as otherwise provided in subsection 2, provide services as a translator; or~~

~~(g) Provide instructional services to pupils under the direct supervision of a licensed teacher.~~

~~2. The term "paraprofessional" does not include a person who:~~

~~(a) Is proficient in the English language and a language other than English and who provides services as a translator primarily to enhance the participation of children in programs that are financially supported pursuant to the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq.~~

~~(b) Solely conducts parental involvement activities.]~~ *(Deleted by amendment.)*

Sec. 49. ~~[NRS 391.019 is hereby amended to read as follows:~~

~~391.019 1. [~~Except as otherwise provided in NRS 391.027, the Commission:~~] *The State Board:*~~

~~(a) Shall adopt regulations:~~

~~(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses.~~

~~(2) Identifying fields of specialization in teaching which require the specialized training of teachers.~~

~~(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.~~

~~(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.~~

~~(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.~~

~~(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:~~

~~(I) Provide instruction or other educational services; and~~

~~(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.~~

~~(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:~~

~~(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or~~

~~(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.~~

~~(8) Requiring an applicant for a special qualifications license to:~~

~~(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or~~

~~(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.~~

~~(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.~~

~~(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:~~

~~(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;~~

~~(II) Is not licensed to teach public school in another state;~~

~~(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and~~

~~(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.~~

~~➡ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.~~

~~(11) If the [Commission] *State Board* approves the Passport to Teaching certification from the American Board for Certification of Teacher Excellence as an alternative route to licensure, providing for the issuance and renewal of a special qualifications license to an applicant who:~~

~~(I) Holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence;~~

~~(II) Passes each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; and~~

~~(III) Agrees to participate in a program of mentoring prescribed by the [Commission] *State Board* for the first year of his employment as a teacher with a school district or charter school.~~

~~(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.~~

~~2. Any regulation which increases the amount of education, training or experience required for licensing:~~

~~(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.~~

~~(b) Must not become effective until at least 1 year after the date it is adopted by the [Commission.] *State Board.*~~

~~(c) Is not applicable to a license in effect on the date the regulation becomes effective.~~

~~3. A person who is licensed pursuant to subparagraph (7), (10) or (11) of paragraph (a) of subsection 1:~~

~~(a) Shall comply with all applicable statutes and regulations.~~

~~(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.~~

~~(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.]~~ *(Deleted by amendment.)*

Sec. 50. ~~[NRS 391.019 is hereby amended to read as follows:~~

~~391.019 1. [Except as otherwise provided in NRS 391.027, the Commission:] *The State Board:*~~

~~(a) Shall adopt regulations:~~

~~(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses.~~

~~(2) Identifying fields of specialization in teaching which require the specialized training of teachers.~~

~~(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.~~

~~(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.~~

~~(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without~~

~~limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.~~

~~(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:~~

~~(I) Provide instruction or other educational services; and~~

~~(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.~~

~~(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:~~

~~(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or~~

~~(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.~~

~~(8) Requiring an applicant for a special qualifications license to:~~

~~(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or~~

~~(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.~~

~~(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.~~

~~(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:~~

~~(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;~~

~~(II) Is not licensed to teach public school in another state;~~

~~(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and~~

~~(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.~~

~~"An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.~~

~~(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.~~

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the [Commission.] *State Board.*

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.] *(Deleted by amendment.)*

Sec. 51. [NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in subparagraph (10) of paragraph (a) of subsection 1 of NRS 391.019 [and NRS 391.027, the Commission] , *the State Board* shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and his knowledge of each specific subject he proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;

2. The Constitution of the State of Nevada; and

3. The Constitution of the United States.

The provisions of this section do not prohibit the [Commission] *State Board* from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel who have previous experience in teaching or performing other educational functions in another state.] *(Deleted by amendment.)*

Sec. 52. [NRS 391.023 is hereby amended to read as follows:

391.023 The [Commission] *State Board* may adopt regulations which provide relief from the strict application of the terms of its regulations relating to the licensure of teachers and other educational personnel for the resolution of medical or administrative conflicts. The conflicts must be resolved within 6 months after the date the relief is granted.] *(Deleted by amendment.)*

Sec. 53. [NRS 391.031 is hereby amended to read as follows:

~~391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:~~

~~1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.~~

~~2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the [Commission.] *State Board.*~~

~~3. A license to teach secondary education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in any secondary school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the [Commission.] *State Board.*~~

~~4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.~~

~~5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the [Commission] *State Board* adopted pursuant to subparagraph (7), (10) or (11) of paragraph (a) of subsection 1 of NRS 391.019.]~~ *(Deleted by amendment.)*

Sec. 54. ~~[NRS 391.031 is hereby amended to read as follows:~~

~~391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:~~

~~1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.~~

~~2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the [Commission.] *State Board.*~~

~~3. A license to teach secondary education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in any secondary school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the [Commission.] *State Board.*~~

~~4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.~~

~~5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the [Commission] *State Board* adopted pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1 of NRS 391.019.]~~ *(Deleted by amendment.)*

Sec. 55. ~~[NRS 391.032 is hereby amended to read as follows:~~

~~391.032 1. [Except as otherwise provided in NRS 391.027, the Commission]~~ *The State Board* ~~shall:~~

~~(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel before completion of all courses of study or other requirements for a license in this State.~~

~~(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states.~~

~~2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel who have previous experience in teaching or performing other educational functions in another state. If the [Commission]~~ *State Board* ~~adopts regulations providing such an exemption, the [Commission]~~ *State Board* ~~shall identify the examinations to which the exemption applies.~~

~~3. A person who is issued a conditional license must complete all courses of study and other requirements for a license in this State which is not conditional within 3 years after the date on which a conditional license is issued.]~~ *(Deleted by amendment.)*

Sec. 56. ~~[NRS 391.033 is hereby amended to read as follows:~~

~~391.033 1. All licenses for teachers and other educational personnel are granted by the~~ *State* ~~Superintendent [of Public Instruction]~~ *for Education* ~~pursuant to regulations adopted by the Commission~~ *[State Board]* ~~and as otherwise provided by law.~~

~~2. An application for the issuance of a license must include the social security number of the applicant.~~

~~3. Every applicant for a license must submit with his application a complete set of his fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.~~

~~4. The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if he determines that the applicant is otherwise qualified.~~

~~5. A license must be issued to an applicant if:~~

~~(a) The Superintendent determines that the applicant is qualified;~~

~~(b) The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History:~~

~~(1) Do not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or~~

~~(2) Indicate that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or charter school for which the applicant applied; and~~

~~(c) The applicant submits the statement required pursuant to NRS 391.034.]~~ *(Deleted by amendment.)*

Sec. 57. NRS 391.038 is hereby amended to read as follows:

391.038 1. The State Board, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers, the board of trustees of each school district in this State and other educational personnel, shall review and evaluate a course of study and training offered by an educational institution which is designed to provide the education required for:

(a) The licensure of teachers or other educational personnel;

(b) The renewal of licenses of teachers or other educational personnel; or

(c) An endorsement in a field of specialization.

➥ If the course of study and training meets the requirements established by the State Board, it must be approved by the State Board. The State Board shall not approve a course of study or training unless the course of study and training provides instruction, to the extent deemed necessary by the State Board, in the standards of content and performance prescribed by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520.

2. The State Board may review and evaluate such courses of study and training itself or may recognize a course of study and training approved by a national agency for accreditation acceptable to the Board.

3. The State Board shall adopt regulations establishing fees for the review by the Board of a course of study and training submitted to the Board by an educational institution.

4. The State Board, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers and other educational personnel, and the Nevada Association of Colleges for Teacher Education and the Nevada Association of Teacher Educators, shall adopt regulations governing the approval by the State Board of courses of study and training which are accredited by the National Council for Accreditation of Teacher Education, and those which are not so accredited.

5. If the State Board denies or withdraws its approval of a course of study or training, the educational institution is entitled to a hearing and judicial review of the decision of the State Board.

Sec. 58. ~~[NRS 391.160 is hereby amended to read as follows:~~

~~391.160 1. The salaries of teachers and other employees must be determined by the character of the service required. A school district shall not discriminate between male and female employees in the matter of salary.~~

~~2. *[The board of trustees of each school district shall adjust the schedule of salaries of the school district to ensure that the starting salary of each*~~

~~*licensed teacher who is initially hired by the school district on or after July 1, 2010, is at least $40,000 annually. For the purposes of this subsection, a person is not "initially hired" if he has been employed as a licensed teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.*~~

~~*3.]* Each year when determining the salary of a teacher who holds certification issued by the National Board for Professional Teaching Standards, a school district shall add 5 percent to the salary that the teacher would otherwise receive in 1 year for his classification on the schedule of salaries for the school district if:~~

~~(a) On or before January 31 of the school year, the teacher has submitted evidence satisfactory to the school district of his current certification; and~~

~~(b) The teacher is assigned by the school district to provide classroom instruction during that school year.~~

~~➥ No increase in salary may be given pursuant to this subsection during a particular school year to a teacher who submits evidence of certification after January 31 of that school year. For the first school year that a teacher submits evidence of his current certification, the board of trustees of the school district to whom the evidence was submitted shall pay the increase in salary required by this subsection retroactively to the beginning of that school year. Once a teacher has submitted evidence of such certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the teacher may otherwise be entitled.~~

~~3.~~ *[4.]* ~~Each year when determining the salary of a person who is employed by a school district as a speech pathologist, the school district shall add 5 percent to the salary that the employee would otherwise receive in 1 year for his classification on the schedule of salaries for the school district if:~~

~~(a) On or before September 15 of the school year, the employee has submitted evidence satisfactory to the school district of his:~~

~~(1) Licensure as a speech pathologist by the Board of Examiners for Audiology and Speech Pathology; and~~

~~(2) Certification as being clinically competent in speech-language pathology by:~~

~~(I) The American Speech-Language-Hearing Association; or~~

~~(II) A successor organization to the American Speech-Language-Hearing Association that is recognized and determined to be acceptable by the Board of Examiners for Audiology and Speech Pathology; and~~

~~(b) The employee is assigned by the school district to serve as a speech pathologist during the school year.~~

~~➥ No increase in salary may be given pursuant to this subsection during a particular school year to an employee who submits evidence of licensure and certification after September 15 of that school year. Once an employee has submitted evidence of such licensure and certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the employee may otherwise be entitled.~~

~~4.~~ *[5.]* ~~Each year when determining the salary of a person who is employed by a school district as a professional school library media specialist, the school district shall add 5 percent to the salary that the employee would otherwise receive in 1 year for his classification on the schedule of salaries of the school district if:~~

~~(a) On or before September 15 of the school year, the employee has submitted evidence satisfactory to the school district of his current certification as a professional school library media specialist issued by the National Board for Professional Teaching Standards; and~~

~~(b) The employee is assigned by the school district to serve as a professional school library media specialist during that school year.~~

~~➥ No increase in salary may be given pursuant to this subsection during a particular school year to an employee who submits evidence of certification after September 15 of that school year. Once an employee has submitted evidence of such certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the employee may otherwise be entitled.~~

~~5.~~ *[6.]* ~~In determining the salary of a licensed teacher who is employed by a school district after the teacher has been employed by another school district in this State, the present employer shall, except as otherwise provided in subsection 8:~~ *[9:]*

~~(a) Give the teacher the same credit for previous teaching service as he was receiving from his former employer at the end of his former employment;~~

~~(b) Give the teacher credit for his final year of service with his former employer, if credit for that service is not included in credit given pursuant to paragraph (a); and~~

~~(c) Place the teacher on the schedule of salaries of the school district in a classification that is commensurate with the level of education acquired by the teacher, as set forth in the applicable negotiated agreement with the present employer.~~

~~6.~~ *[7.]* ~~A school district may give the credit required by subsection 5~~ *[6]* ~~for previous teaching service earned in another state if the Commission~~ *[State Board]* ~~has approved the standards for licensing teachers of that state. The Commission~~ *[State Board]* ~~shall adopt regulations that establish the criteria by which the Commission~~ *[State Board]* ~~will consider the standards~~

~~for licensing teachers of other states for the purposes of this subsection. The criteria may include, without limitation, whether the Commission *[State Board]* has authorized reciprocal licensure of educational personnel from the state under consideration.~~

~~7. *[8.]* In determining the salary of a licensed administrator, other than the superintendent of schools, who is employed by a school district after the administrator has been employed by another school district in this State, the present employer shall, except as otherwise provided in subsection 8: *[9:]*~~

~~(a) Give the administrator the same credit for previous administrative service as he was receiving from his former employer, at the end of his former employment;~~

~~(b) Give the administrator credit for his final year of service with his former employer, if credit for that service is not otherwise included in the credit given pursuant to paragraph (a); and~~

~~(c) Place the administrator on the schedule of salaries of the school district in a classification that is comparable to the classification the administrator had attained on the schedule of salaries of his former employer.~~

~~8. *[9.]* This section does not:~~

~~(a) Require a school district to allow a teacher or administrator more credit for previous teaching or administrative service than the maximum credit for teaching or administrative experience provided for in the schedule of salaries established by it for its licensed personnel.~~

~~(b) Permit a school district to deny a teacher or administrator credit for his previous teaching or administrative service on the ground that the service differs in kind from the teaching or administrative experience for which credit is otherwise given by the school district.~~

~~9. *[10.]* As used in this section:~~

~~(a) "Previous administrative service" means the total of:~~

~~(1) Any period of administrative service for which an administrator received credit from his former employer at the beginning of his former employment; and~~

~~(2) His period of administrative service in his former employment.~~

~~(b) "Previous teaching service" means the total of:~~

~~(1) Any period of teaching service for which a teacher received credit from his former employer at the beginning of his former employment; and~~

~~(2) His period of teaching service in his former employment.]~~ *(Deleted by amendment.)*

Sec. 59. ~~[NRS 391.504 is hereby amended to read as follows:~~

~~391.504 [~~"Regional]~~ *As used in NRS 391.504 to 391.556, inclusive, unless the context otherwise requires, "regional* training program" means a regional training program for the professional development of teachers and administrators created pursuant to NRS 391.512.] *(Deleted by amendment.)*~~

Sec. 60. NRS 391.520 is hereby amended to read as follows:

391.520 1. The Statewide Council shall meet not less than four times per year.

2. The Statewide Council shall:

(a) Adopt ~~*[State Board, in consultation with the Division of Innovation, Research and Professional Development of the Department, shall adopt]*~~ uniform standards for use by the governing body of each regional training program in the review and approval by the governing body of the training to be provided by the regional training program pursuant to NRS 391.540 and 391.544. The standards must ensure that the training provided by the regional training programs includes activities set forth in 20 U.S.C. § 7801(34), as appropriate for the type of training offered, is of high quality and is effective in addressing the training programs specified in subsection 1 of NRS 391.544.

(b) ~~*[2. The Division of Innovation, Research and Professional Development shall:*~~

~~*(a)]*~~ Coordinate the dissemination of information to school districts, administrators and teachers concerning the training, programs and services provided by the regional training programs.

(c) ~~*[(b)]*~~ Disseminate information to the regional training programs concerning innovative and effective methods to provide professional development.

(d) ~~*[(c)]*~~ Conduct long-range planning concerning the professional development needs of teachers and administrators employed in this state.

(e) ~~*[(d)]*~~ Adopt uniform procedures for use by the governing body of each regional training program to report the evaluation conducted pursuant to NRS 391.552.

(f) Collaborate with the Nevada System of Higher Education concerning the programs offered by the colleges of education at the institutions within the System and the programs of professional development for teachers.

3. The Statewide Council ~~*[Division of Innovation, Research and Professional Development]*~~ may:

(a) Accept gifts and grants from any source for use by the Statewide Council ~~*[Division]*~~ in carrying out its duties pursuant to this section and accept gifts and grants from any source on behalf of one or more regional training programs to assist with the training provided pursuant to NRS 391.544; and

(b) Comply with applicable federal laws and regulations governing the provision of federal grants to assist the Statewide Council ~~*[Division]*~~ in carrying out its duties pursuant to this section and comply with applicable federal laws and regulations governing the provision of federal grants to assist with the training provided pursuant to NRS 391.544, including, without limitation, providing money from the budget of the Statewide Council ~~*[Division]*~~ to match the money received from a federal grant.

~~*[4. The State Board may appoint an advisory committee composed of six members who are qualified and who represent the regional training programs and educational personnel to advise the State Board and the Division of Innovation, Research and Professional Development in carrying*~~

~~*out the provisions of NRS 391.504 to 391.556, inclusive. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.]*~~

Sec. 61. ~~[NRS 391.532 is hereby amended to read as follows:~~

~~391.532 1. The governing body of each regional training program shall:~~

~~(a) Employ or otherwise contract with a coordinator of the program, who serves at the pleasure of the governing body.~~

~~(b) Set the salary or other compensation of the coordinator.~~

~~2. The coordinator of each regional training program shall:~~

~~(a) Serve on the Statewide Council;~~

~~(b) Assist in the evaluation of the regional training program, as directed by the governing body; and~~

~~(c) *[(b)]* Perform such other duties as directed by the governing body.]~~ *(Deleted by amendment.)*

Sec. 62. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers in the standards established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

(1) Phonemic awareness;

(2) Phonics;

(3) Vocabulary;

(4) Fluency;

(5) Comprehension; and

(6) Motivation.

(c) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to

pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

➥ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 63. ~~[NRS 391.552 is hereby amended to read as follows:~~

~~391.552 The governing body of each regional training program shall:~~

~~1. Establish a method for the evaluation of the success of the regional training program, including, without limitation, the Nevada Early Literacy Intervention Program. The method must be consistent with the uniform procedures adopted by the Statewide Council *[Division of Innovation, Research and Professional Development of the Department]* pursuant to NRS 391.520.~~

~~2. On or before September 1 of each year, submit an annual report to the State Board, the Commission, the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes:~~

~~(a) The priorities for training adopted by the governing body pursuant to NRS 391.540.~~

~~(b) The type of training offered through the program in the immediately preceding year.~~

~~(c) The number of teachers and administrators who received training through the program in the immediately preceding year.~~

~~(d) The number of paraprofessionals, if any, who received training through the program in the immediately preceding year.~~

~~(e) An evaluation of the success of the program, including, without limitation, the Nevada Early Literacy Intervention Program, in accordance with the method established pursuant to subsection 1.~~

~~(f) A description of the gifts and grants, if any, received by the governing body in the immediately preceding year and the gifts and grants, if any, received by the Statewide Council *[Division of Innovation, Research and Professional Development]* during the immediately preceding year on behalf of the regional training program. The description must include the manner in which the gifts and grants were expended.~~

~~(g) The 5-year plan for the program prepared pursuant to NRS 391.540 and any revisions to the plan made by the governing body in the immediately preceding year.~~] *(Deleted by amendment.)*

Sec. 64. NRS 391.556 is hereby amended to read as follows:

391.556 The board of trustees of each school district shall submit an annual report to the State Board, the Commission, the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes for the immediately preceding year:

1. The number of teachers and administrators employed by the school district who received training through the program; and

2. An evaluation of whether that training included the standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520.

Sec. 65. NRS 396.5195 is hereby amended to read as follows:

396.5195 The Board of Regents shall, in cooperation with the State Board , ~~[and the Council to Establish Academic Standards for Public Schools,]~~ ensure that students enrolled in a program developed by the System for the education of teachers are provided instruction regarding the standards of content and performance required of pupils enrolled in high schools in this State.

Sec. 66. ~~[NRS 400.035 is hereby amended to read as follows:~~

~~400.035 1. The Council shall meet at least once each calendar quarter and as frequently as necessary to afford the general public, representatives of governmental agencies and representatives of organizations an opportunity to present information and recommendations relating to the coordination between elementary, secondary and postsecondary education, including, without limitation, the Nevada Youth Legislative Issues Forum created by~~

~~NRS 385.515 . [and the Advisory Council on Parental Involvement established by NRS 385.610.]~~

~~2. The Council shall comply with the provisions of chapter 241 of NRS.~~

~~3. For each day or portion of a day during which the members of the Council attend a meeting of the Council or are otherwise engaged in the business of the Council:~~

~~(a) The members who are Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207, payable from the Legislative Fund.~~

~~(b) The members who are appointed by the Majority Leader of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate and the Minority Leader of the Assembly who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable from the Legislative Fund.~~

~~(c) The members who are appointed by the Governor are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable as other claims against the State are paid.~~

~~4. The Office of the Governor shall provide:~~

~~(a) Administrative support;~~

~~(b) Equipment; and~~

~~(c) Office space,~~

~~as is necessary for the Council to carry out its duties.~~

~~5. The Board of Regents of the University of Nevada and the Department shall provide technical assistance to the Council upon the request of the Chairman.]~~ *(Deleted by amendment.)*

Sec. 67. 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 ~~[;]~~ *, the defined goals and benchmarks and the measurable outcomes established by the State Board of Education pursuant to ~~[section 9 of this act;]~~ NRS 385.075;*

(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 5.5 of this act,* recommend to the ~~[Commission on Educational Excellence created by NRS 385.3784]~~ ~~*[State Board]*~~ *Department of Education* programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 68. ~~[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.~~

~~2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education [,] *and* 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.]~~ *(Deleted by amendment.)*

Sec. 69. NRS 385.017, 385.0175, 385.018, 385.019, 385.0225, 385.023, 385.0235, 385.024, 385.0245, 385.025, 385.0255, 385.0257, 385.026, 385.0265, 385.3781, *385.3782,* 385.3783, 385.3784, *385.3785, 385.3787, 385.3789, 385.379,* 388.780, 388.785, *388.787,* 388.790, *388.800, 388.805,* 389.500 ~~[,]~~ *and* 389.510 ~~[, 391.002, 391.005, 391.011, 391.013, 391.015, 391.017, 391.027, 391.029, 391.500, 391.508 and 391.516]~~ are hereby repealed.

Sec. 69.5. 1. Any money remaining unexpended on June 30, 2009, in the Account for Programs for Innovation and the Prevention of Remediation must not be committed for expenditure after June 30, 2009, 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, revert to the State General Fund any money remaining unexpended in the Account on that date.

2. Any money remaining unexpended on June 30, 2009, in the Trust Fund for Educational Technology must not be committed for expenditure after June 30, 2009, 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, 2009, revert to the State General Fund any money remaining unexpended in the Trust Fund on that date.

Sec. 70. 1. ~~[There is hereby created a Commission to Oversee Educational Reform, consisting of 6 members as follows:~~

~~(a) Two members appointed by the Governor to terms which commence on July 1, 2009, and expire on June 30, 2011.~~

~~(b) Two members appointed by the Majority Leader of the Senate to terms which commence on July 1, 2009, and expire on June 30, 2011.~~

~~(c) Two members appointed by the Speaker of the Assembly to terms which commence on July 1, 2009, and expire on June 30, 2011.~~

~~2. At its first meeting, the members of the Commission to Oversee Educational Reform shall elect a Chair from among its members. The Commission shall meet at the call of the Chair or a majority of the Commission.~~

~~3. A vacancy on the Commission to Oversee Educational Reform must be filled in the same manner as the original appointment.~~

~~4.]~~ The *Legislative* Commission ~~[to Oversee Educational Reform]~~ shall:

(a) Monitor the State Board of Education and the Department of Education in carrying out the amendatory provisions of this act.

(b) Review the implementation of the amendatory provisions of this act.

~~[(c) On or before July 1, 2010, submit to the Legislative Committee on Education a preliminary report concerning the progress of the changes and reformations of the State Board of Education, the Department of Education and the system of public education in this State generally, including an analysis of the effectiveness of the changes and reformations.~~

~~(d) On or before February 1, 2011, submit to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature a report concerning the changes and reformations of the State Board of Education, the Department of Education and the system of public education in this State generally, including an analysis of the effectiveness of the changes and reformations. The report may include any recommendations for legislation proposed by the Commission to Oversee Educational Reform.~~

~~5.]~~ *2.* The State Board of Education and the Department of Education shall work cooperatively with the *Legislative* Commission ~~[to Oversee Educational Reform.~~

~~6. The members of the Commission to Oversee Educational Reform shall serve without compensation.~~

~~7. The Legislative Counsel Bureau shall provide administrative support at the request of the Commission to Oversee Educational Reform.]~~ *to carry out the provisions of this section.*

Sec. 71. 1. The terms of all members of the State Board of Education who are incumbent on December 31, 2010, expire on that date.

2. On or before January 1, 2011:

(a) The Governor shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2013.

(b) The ~~[Majority Leader of the Senate]~~ *Legislative Commission* shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2015.

(c) The ~~[Speaker of the Assembly]~~ *Legislative Commission* shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2013.

(d) The Board of Regents of the University of Nevada ~~[may]~~ *shall* appoint one member who meets the qualifications set forth in paragraph (c) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2015.

3. The member who is elected who is a resident of:

(a) Congressional District 1, as described in NRS 304.100, serves an initial term of 2 years and serves a term of 4 years thereafter.

(b) Congressional District 2, as described in NRS 304.110, serves a term of 4 years.

(c) Congressional District 3, as described in NRS 304.120, serves a term of 4 years.

Sec. 72. 1. The terms of all members of the Commission on Educational Excellence who are incumbent on June 30, 2009, expire on that date.

2. The terms of all members of the Commission on Educational Technology who are incumbent on June 30, 2009, expire on that date.

3. The terms of all members of the Council to Establish Academic Standards for Public Schools who are incumbent on June 30, 2009, expire on that date.

~~[4. The terms of all members of the Commission on Professional Standards in Education who are incumbent on June 30, 2009, expire on that date.~~

~~5. The terms of all members of the Statewide Council for the Coordination of the Regional Training Programs who are incumbent on June 30, 2009, expire on that date.]~~

Sec. 73. 1. The term of the Superintendent of Public Instruction who was appointed pursuant to NRS 385.150 before the effective date of this act continues to serve for the remainder of that unexpired term. Upon expiration of the term or if a vacancy occurs before the expiration of that term, the Governor shall nominate and the Legislative Commission may confirm a State Superintendent for Education in accordance with NRS 385.150, as amended by section 11 of this act, for a term which expires on June 30, 2010.

2. Commencing on February 1, 2011, the Governor shall nominate, and the Senate may confirm in accordance with NRS 385.150, as amended by section 11 of this act, a State Superintendent for Education for a term which commences on July 1, 2011.

Sec. 74. 1. The Legislative Counsel shall, in preparing the:

(a) 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, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or entity. 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.

(b) Supplements to the Nevada Administrative Code, appropriately change any reference to an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or entity.

2. Any references in a bill or resolution passed by the 75th Session of the Nevada Legislature to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the

provisions of this act to another officer, agency or other entity shall be deemed to refer to the officer, agency or other entity to which the responsibility is transferred.

Sec. 75. ~~[1.]~~ Any policies adopted by the Commission on Educational Excellence pursuant to NRS 385.3781 to 385.379, inclusive, before July 1, 2009:

~~[(a)]~~ *1.* Remain in effect and may be enforced *by the Department of Education and the State Board of Education* as if adopted by the State Board ~~[of Education]~~ in accordance with the provisions of this act; and

~~[(b)]~~ *2.* May be amended or repealed by the State Board of Education in accordance with the provisions of this act.

~~[2. Any regulations or policies adopted by the Department of Education, in consultation with the Commission on Educational Technology, pursuant to NRS 388.780 to 388.805, inclusive, before July 1, 2009:~~

~~(a) Remain in effect and may be enforced as if adopted by the State Board of Education in accordance with the provisions of this act; and~~

~~(b) May be amended or repealed by the State Board of Education in accordance with the provisions of this act.~~

~~3. Any regulations or policies adopted by the Commission on Professional Standards in Education pursuant to chapter 391 of NRS before July 1, 2009:~~

~~(a) Remain in effect and may be enforced as if adopted by the State Board of Education in accordance with the provisions of this act; and~~

~~(b) May be amended or repealed by the State Board of Education in accordance with the provisions of this act.~~

~~4. Any policies adopted by the Statewide Council for the Coordination of the Regional Training Programs pursuant to NRS 391.500 to 391.556, inclusive, before July 1, 2009:~~

~~(a) Remain in effect and may be enforced as if adopted by the State Board of Education in accordance with the provisions of this act; and~~

~~(b) May be amended or repealed by the State Board of Education in accordance with the provisions of this act.]~~

Sec. 76. On or before July 1, 2009, the ~~[State Board]~~ *:*

1. Department of Education shall appoint members to the ~~[:~~

~~1. Advisory committee authorized pursuant to NRS 385.3785, as amended by section 23 of this act. Persons appointed by the State Board may be persons who served on the Commission on Educational Excellence as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.~~

~~2. Advisory]~~ *advisory* committee authorized pursuant to NRS 388.795, as amended by section 31 of this act. Persons appointed by the ~~[State Board]~~ *Department* may be persons who served on the Commission on Educational Technology as it existed before the effective date of this act. The term of

each member appointed pursuant to this subsection expires on June 30, 2011, unless the ~~[State Board]~~ *Department* decides to reappoint the member.

~~[3. Advisory]~~

2. State Board of Education shall appoint members to the advisory committee authorized pursuant to NRS 389.530, as amended by section 38 of this act. Persons appointed by the State Board may be persons who served on the Council to Establish Academic Standards for Public Schools as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.

~~[4. Advisory committee authorized pursuant to section 46 of this act. Persons appointed by the State Board may be persons who served on the Commission on Professional Standards in Education as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.~~

~~5. Advisory committee authorized pursuant to NRS 391.520, as amended by section 60 of this act. Persons appointed by the State Board may be persons who served on the Statewide Council for the Coordination of the Regional Training Programs as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.]~~

Sec. 77. *1.* Any contract entered into by the ~~[Commission on Educational Excellence, Commission on Educational Technology,]~~ Council to Establish Academic Standards for Public Schools ~~[, Commission on Professional Standards in Education or Statewide Council for the Coordination of the Regional Training Programs]~~ before July 1, 2009, remains in effect and may be administered and enforced by the State Board of Education.

2. Any contract entered into by the Commission on Educational Excellence or the Commission on Educational Technology before July 1, 2009, remains in effect and may be administered and enforced by the Department of Education.

Sec. 78. 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 until October 1, 2011, 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. 79. 1. This section and sections 70, 72 and 76 of this act become effective on passage and approval for purposes of:

(a) Expiring terms pursuant to section 72 of this act; and

(b) Making appointments pursuant to sections 70 and 76 of this act,

➥ and on July 1, 2009, for all other purposes.

2. Sections 8 and 71 of this act become effective upon passage and approval for purposes of electing members from each of the congressional districts in the 2010 general election and expiring the terms of the incumbent members of the State Board of Education pursuant to section 71 of this act, and on January 1, 2011, for all other purposes.

3. Sections 1 to 7, inclusive, 9 to 49, inclusive, 51, 52, 53, 55 to 69, inclusive, 73, 74, 75, 77 and 78 of this act become effective on July 1, 2009.

4. Sections 50 and 54 of this act become effective on July 1, 2011.

5. Section 56 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

385.017 Definitions.

385.0175 Maps of districts: Duties of Director of Legislative Counsel Bureau.

385.018 Maps of districts: Duties of Secretary of State.

385.019 Attachment of omitted area to appropriate district.

385.0225 District 1.

385.023 District 2.

385.0235 District 3.

385.024 District 4.

385.0245 District 5.

385.025 District 6.

385.0255 District 7.

385.0257 District 8.

385.026 District 9.

385.0265 District 10.

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.

388.780 Definitions.

388.785 "Commission" defined.

388.787 "Committee" defined.

388.790 Commission on Educational Technology: Creation; membership; terms; removal and vacancy; quarterly meetings required; compensation.

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.

389.500 "Council" defined.

389.510 Council to Establish Academic Standards: Creation; membership; terms; compensation.

~~[391.002 Definitions.~~

~~391.005 "Commission" defined.~~

~~391.011 Creation; membership.~~

~~391.013 Limitation on terms of certain members.~~

~~391.015 Officers.~~

~~391.017 Meetings; quorum; travel expenses and subsistence allowances.~~

~~391.027 Approval or disapproval of Commission's regulations by State Board of Education.~~

~~391.029 Provision of personnel; location of offices.~~

~~391.500 Definitions.~~

~~391.508 "Statewide Council" defined.~~

~~391.516 Statewide Council for the Coordination of the Regional Training Programs: Creation; membership; terms; compensation; administrative support authorized.]~~

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford, Washington and Raggio.

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

SENATOR HORSFORD:

Thank you, Mr. President. This bill and the amendment address several key issues around education reform this Session.

It revises the membership of the State Board of Education to include two members appointed by the Legislative Commission, rather than by the Senate Majority Leader and the Speaker of the Assembly. It clarifies that appointees to the State Board must be a resident of Nevada and have experience in the field of education or in public policy or public administration or be active in the business community.

It extends the term for the State Superintendent from two to four years. It clarifies that the Department, not the State Board, oversees the plan for educational technology in Nevada. It reinstates the Commission on Professional Standards in Education as well as the Statewide Council for the Coordination of the Regional Training Programs.

The amendment eliminates the provisions that were proposed in the original bill dealing with the High School Proficiency Examination and the Alternative Pathway to Demonstrate Proficiency.

The amendment creates the Endowment Fund for Program for Performance Pay to be administered by the Department of Education.

It removes the provisions relating to the beginning salaries of teachers that was initially proposed by the bill.

Finally, the amendment removes the provisions creating the Commission to Oversee Educational Reform and instead replaces it with the Legislative Commission to oversee the progress with the Initiative for a World-Class Education in Nevada.

SENATOR WASHINGTON:

I am supporting the amendment, but there are several provisions in the amendment that the Majority Leader and I have disagreed on.

These concerns dealt with the composition of the Board being selected. One was from the Governor, and two were appointed by the Legislative Commission, and two were appointed by the Majority Leaders of both respected Houses. My concern with this leads to where one party dominates both Houses; there is also the potential that the Executive Branch may be of the same party, it lends itself to incongruity as far as the selection process goes.

My second concern is with the provision in section 45.5 that deals with alternative negotiations for those specialties of which we have a shortage. We are short on special education teachers, math and science teachers. This gave them the opportunity to negotiate above the means that was set within their negotiated settlements for additional salaries and benefits for those specialties.

We are concerned about the Commission on Excellence, which has been eliminated. Other than that, we are in agreement with most of the amendment.

SENATOR RAGGIO:

I would like to ask the Majority Leader about the requirements for a diploma. Does this amendment remove the changes that were in the original bill and restore the requirement that one obtains a diploma and the passage of the High School Proficiency Examination to the status that it is at the present time?

SENATOR HORSFORD:

Yes, it does repeal those provisions as proposed and the current statute would remain.

Amendment adopted.

The following amendment was proposed by Senator Cegavske:

Amendment No. 482.

"SUMMARY—Enacts the Initiative for a World-Class Education in Nevada. (BDR 34-171)"

"AN ACT relating to education; revising provisions relating to the Superintendent of Public Instruction; making various changes regarding the

Department of Education, the State Board of Education and various councils and commissions related to the system of public education in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Department of Education, consisting of the State Board of Education, the State Board for Career and Technical Education and the Superintendent of Public Instruction, and creates the Commission on Educational Excellence, the Commission on Educational Technology, the Council to Establish Academic Standards for Public Schools, the Commission on Professional Standards in Education and the Statewide Council for the Coordination of the Regional Training Programs. (NRS 385.010, 385.3784, 388.790, 389.510, 391.011, 391.516) This bill repeals provisions creating the Commission on Educational Excellence, the Commission on Educational Technology, the Council to Establish Academic Standards for Public Schools, the Commission on Professional Standards in Education and the Statewide Council for the Coordination of the Regional Training Programs. This bill also transfers certain duties and responsibilities formerly assigned to those bodies to the State Board of Education and the Department of Education.

Section 8 of this bill revises the membership of the State Board of Education to eliminate the 10 districts from which members are elected and provides for the election of one member from each of the congressional districts (currently three) and the appointment of one member each by the Governor, the Majority Leader of the Senate, the Speaker of the Assembly and the Board of Regents of the University of Nevada. (NRS 385.021) Section 8 also prescribes the requirements for the members.

Section 9 of this bill requires the State Board of Education to establish clear and well-defined goals for the education of pupils in this State, the improvement of the system of public education in this State and to meet other specific objectives relating to education. (NRS 385.075)

Under existing law, the Superintendent is appointed by the State Board. (NRS 385.150) This bill changes the name of the Superintendent of Public Instruction to the State Superintendent for Education. Section 11 of this bill requires the Governor to nominate and the Senate to confirm each appointment as State Superintendent. If the position is vacant at a time when the Legislature is not in session, the Legislative Commission has the authority to confirm such a nominee. (NRS 385.150)

Section 2 of this bill creates within the Department four divisions: (1) the Division of Assessment and Accountability; (2) the Division of Curriculum and Instruction; (3) the Division of Operations, Fiscal Services and Technology; and (4) the Division of Innovation, Research and Professional Development. Section 15 of this bill revises the Deputy Superintendent of Instructional, Research and Evaluative Services to be the Deputy Superintendent of the Division of Curriculum and Instruction. (NRS 385.290) Section 16 of this bill revises the Deputy Superintendent for

Administrative and Fiscal Services to be the Deputy Superintendent of the Division of Operations, Fiscal Services and Technology. (NRS 385.300) Sections 3 and 4 of this bill require the State Superintendent for Education to oversee the business of the other two newly created Divisions.

Section 5 of this bill requires the Department to adopt a model to measure and track the achievement and progress of pupils in this State and prescribes the requirements for that system.

Existing law authorizes a pupil who fails the high school proficiency examination to obtain a standard high school diploma if he: (1) fails the examination in its entirety not less than three times but passes the reading and mathematics portions of the examination; (2) has a 2.75 grade point average; (3) satisfies alternative criteria established by the State Board; and (4) otherwise satisfies the requirements to graduate high school. (NRS 389.805) Section 43 of this bill allows a pupil to obtain a standard high school diploma if he fails the high school proficiency examination if he: (1) passes any two subject areas on the high school proficiency examination; (2) has a 2.0 grade point average; (3) satisfies alternative criteria established by the State Board; and (4) otherwise satisfies the requirements to graduate from high school.

Section 45.5 of this bill authorizes a teacher who holds an endorsement in the field of mathematics, science or special education to, in certain circumstances, negotiate his salary with the board of trustees of the school district or the governing body of the charter school that employs the teacher.

Section 47 of this bill requires the Department to establish a program of performance pay for voluntary participation by educational personnel and other school personnel and prescribes the requirements for determining eligibility for receipt of the enhanced compensation. Existing law prescribes certain requirements concerning the salaries of teachers. (NRS 391.160) Section 58 of this bill requires the board of trustees of each school district to adjust the schedule of salaries to ensure that the starting salary of each licensed teacher who is initially hired on or after July 1, 2010, is at least $40,000 annually.

Section 70 of this bill creates the Commission to Oversee Educational Reform to monitor and report on the progress and effectiveness of the changes and reformations required by this bill.

WHEREAS, The Nevada Constitution requires the Legislature to provide for a system of public education in this State; and

WHEREAS, The pupils in this State are entitled to receive a world-class education which will ensure year-to-year progress and which will adequately prepare those pupils to enter postsecondary education and the workforce; and

WHEREAS, By enacting the Initiative for a World-Class Education in Nevada, the Legislature will ensure that each pupil receives an education that prepares him for higher education, a career and a lifetime of future success; and

WHEREAS, The Initiative for a World-Class Education in Nevada provides for systematic change to the educational structure of this State to facilitate progress toward attaining statewide goals and meeting measurable objectives to ensure the future success of the pupils enrolled in public schools in this State; and

WHEREAS, The future of this State is of the utmost importance to the members of the 75th Session of the Nevada Legislature, and educating pupils is vital to securing that future; now, therefore,

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 to 5, inclusive, of this act.

Sec. 2. *There is hereby created within the Department the:*

1. Division of Assessment and Accountability;

2. Division of Curriculum and Instruction;

3. Division of Operations, Fiscal Services and Technology; and

4. Division of Innovation, Research and Professional Development.

Sec. 3. *1. The State Superintendent for Education shall direct the business of the Division of Assessment and Accountability.*

2. The Division of Assessment and Accountability may perform any duty required by the State Superintendent for Education and shall do such work as the State Superintendent may direct under the laws of the State.

Sec. 4. *1. The State Superintendent for Education shall direct the business of the Division of Innovation, Research and Professional Development.*

2. The Division of Innovation, Research and Professional Development may perform any duty required by the State Superintendent for Education and shall do such work as the State Superintendent may direct under the laws of the State.

Sec. 5. *1. The Department shall adopt a model to measure and track from year to year the achievement and progress made by each pupil, each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, each public school, including, without limitation, each charter school, each school district and the State as a whole.*

2. The Department shall identify the measures of progress for inclusion in the model which must include, without limitation, the results of pupils on the examinations administered pursuant to NRS 389.550 and the results of pupils on the high school proficiency examination administered pursuant to NRS 389.015. The model must include other measures of progress identified by the Department, including, without limitation, graduation and attendance rates.

3. The model must be designed in a manner which allows the Department to:

(a) Identify each program for which a grant of money is made from the Account for Programs for Innovation and the Prevention of Remediation or

otherwise provided through the State and which is being used by a public school; and

(b) Determine, through results of evaluations, the programs which are used by public schools and which are making improvements in the achievement and progress of pupils and the programs which are used by public schools and which are not making the same level of improvements.

4. The Department may contract with a qualified and independent consultant to assist the Department in the development and maintenance of the model.

Sec. 6. NRS 385.010 is hereby amended to read as follows:

385.010 1. A Department of Education is hereby created.

2. The Department consists of the State Board of Education, the State Board for Career and Technical Education and the *State* Superintendent [of Public Instruction.] *for Education.*

3. The *State* Superintendent ~~[of Public Instruction]~~ *for Education, who is the chief educational officer for the State,* is the executive head of the Department.

Sec. 7. NRS 385.014 is hereby amended to read as follows:

385.014 When required, the Attorney General shall give his opinion in writing and without fee to the State Board ~~[,]~~ *and* the *State* Superintendent ~~[of Public Instruction and the Commission on Professional Standards in]~~ *for* Education on matters relating to the powers and duties of the Department.

Sec. 8. NRS 385.021 is hereby amended to read as follows:

385.021 1. The State Board consists of ~~[10 members]~~ *:*

(a) One member elected by the registered voters within ~~[the districts]~~ *each congressional district* described in NRS ~~[385.0225 to 385.0265,]~~ *304.060 to 304.120,* inclusive ~~[.]~~ *;*

(b) One member appointed by the Governor;

(c) One member appointed by the Majority Leader of the Senate, who must not be a Legislator;

(d) One member appointed by the Speaker of the Assembly, who must not be a Legislator; and

(e) One nonvoting member appointed by the Board of Regents of the University of Nevada.

2. Each member of the State Board *:*

(a) Elected pursuant to paragraph (a) of subsection 1 must be a resident of the district from which that member is elected.

~~[3. At the general election in 2002, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 2, 5, 6 and 10.~~

~~4. At the general election in 2004, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 1, 3, 4, 7, 8 and 9.~~

~~5.~~ *(b) Appointed pursuant to paragraph (b), (c) or (d) of subsection 1 must have experience in prekindergarten, elementary, secondary or postsecondary education, be a resident of this State and:*

(1) Have experience in public policy or public administration; or

(2) Be active in the business community or industry of this State.

➥ *To the extent practicable, those members must be appointed from lists of nominations provided by associations and organizations in this State which are concerned with issues relating to public education, including, without limitation, associations representing educational personnel.*

(c) Appointed pursuant to paragraph (e) of subsection 1 must have experience in postsecondary education and be a resident of this State.

3. After the initial terms, each member serves a term of 4 years.

4. If a vacancy occurs on the State Board ~~[,]~~ *during the term of a member who was:*

(a) Elected pursuant to paragraph (a) of subsection 1, the Governor shall appoint a member to fill the vacancy until the next general election, at which election a member must be chosen for the balance of the unexpired term. The appointee must be a resident of the district where the vacancy occurs.

(b) Appointed pursuant to paragraph (b), (c), (d) or (e) of subsection 1, the vacancy must be filled in the manner of the original appointment.

~~[6.]~~ *5.* No member of the State Board may ~~[be elected to the office]~~ *serve* more than three ~~[times.]~~ *terms of office.*

Sec. 9. NRS 385.075 is hereby amended to read as follows:

385.075 The State Board shall ~~[establish policies]~~ *:*

1. Establish policies to govern the administration of all functions of the State relating to *the* supervision, management and control of public schools not conferred by law on some other agency.

2. Establish clearly defined goals and benchmarks for improving the achievement of pupils in this State, including, without limitation, goals for:

(a) Improving proficiency results in core academic subject areas;

(b) Increasing the number of pupils enrolled in middle schools and junior high schools in this State who enter high school with the skills necessary to succeed in high school;

(c) Improving the percentage of pupils who enroll in grade 9 in this State and who complete high school and obtain a standard diploma upon completion;

(d) Improving the performance of pupils in this State on standardized college entrance examinations;

(e) Increasing the percentage of pupils enrolled in high schools in this State who enter postsecondary educational institutions; and

(f) Reengaging disengaged youth who have dropped out of high school or who are at risk of dropping out of high school, including, without limitation, a mechanism for tracking and maintaining communication with those youth who have dropped out or who are at risk of doing so.

3. Establish a mechanism to measure the progress made toward meeting statewide educational goals, including, without limitation:

(a) Establishing measurable outcomes for the achievement of school districts;

(b) Developing a system to track progress toward those measurable objectives, including data on the results of pupils on the examinations administered pursuant to NRS 389.550 and the high school proficiency examination; and

(c) Improving the capacity and maintenance of the automated system of accountability information for Nevada established pursuant to NRS 386.650.

4. Collaborate with the Department and the Nevada System of Higher Education to:

(a) Align the academic standards and curriculum developed for pupils enrolled in elementary and secondary education with the academic standards and curriculum developed for students enrolled in postsecondary educational institutions in this State; and

(b) Provide professional development and training through the Nevada System of Higher Education to assist the Department in ensuring that educational personnel are properly trained and that educational personnel are exposed to various classroom methodologies.

Sec. 10. NRS 385.110 is hereby amended to read as follows:

385.110 1. Except as otherwise provided in subsections 2 and 3, the State Board shall prescribe and cause to be enforced the courses of study for the public schools of this State. The courses of study prescribed and enforced by the State Board must comply with the standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520.

2. For those courses of study prescribed by the State Board:

(a) High schools may have modified courses of study, subject to the approval of the State Board; and

(b) Any high school offering courses normally accredited as being beyond the level of the 12th grade shall, before offering such courses, have them approved by the State Board.

3. A charter school is not required to offer the courses of study prescribed by the State Board except for those courses of study which are required for promotion to the next grade or graduation from high school.

Sec. 11. NRS 385.150 is hereby amended to read as follows:

385.150 1. The ~~[State Board]~~ *Governor* shall *nominate and, upon confirmation in accordance with subsection 3,* appoint the *State* Superintendent ~~[of Public Instruction]~~ *for Education* for a term of ~~[3]~~ *2* years ~~[.]~~ *commencing on July 1 of odd-numbered years.* The ~~[State Board]~~ *Governor* may remove the Superintendent ~~[of Public Instruction]~~ from office for inefficiency, neglect of duty, malfeasance in office or for other just cause. *The State Board may provide to the Governor a list of not less than three names of persons that the State Board determines are qualified for*

appointment as State Superintendent for Education. The Governor shall, to the extent practicable, nominate the State Superintendent for Education from the list of names provided by the State Board.

2. A vacancy must be filled by the ~~[State Board]~~ *Governor nominating and, upon confirmation in accordance with subsection 3, appointed* for the remainder of the unexpired term.

3. *On or before February 1 of each odd-numbered year, the Governor shall provide to the Director of the Legislative Counsel Bureau, for transmission to the Senate, the name of the person nominated as the State Superintendent for Education. The Senate shall, within the first 45 days of the next regularly scheduled session of the Legislature, consider the nominee and confirm or deny the nomination. If the Senate denies a nomination, the Governor may nominate another person as the State Superintendent for Education and immediately transmit the name to the Senate. The Senate shall, within 30 days after receiving each subsequent nomination, consider the nominee and confirm or deny the nomination. If the position of State Superintendent for Education is not filled during the regular session of the Legislature or becomes vacant while the Legislature is not in session, the Legislative Commission shall, within 30 days after receiving a nomination from the Governor, consider the nominee and confirm or deny the nomination. The Governor may not nominate as State Superintendent for Education a person who has been previously denied by either the Senate or the Legislative Commission.*

4. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* is in the unclassified service of the State.

Sec. 12. NRS 385.170 is hereby amended to read as follows:

385.170 The *State* Superintendent *for Education* shall not pursue any other business or occupation or hold any other office of profit . ~~[without the approval of the State Board of Education.]~~

Sec. 13. NRS 385.175 is hereby amended to read as follows:

385.175 The *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall:

1. Execute, direct or supervise all administrative, technical and procedural activities of the Department in accordance with policies prescribed by the State Board.

2. Employ personnel for the positions approved by the State Board and necessary for the efficient operation of the Department.

3. Organize the Department in a manner *consistent with section 2 of this act,* which will assure efficient operation and service.

4. Maintain liaison and coordinate activities with other state agencies performing educational functions.

5. Perform such other duties as are prescribed by law.

Sec. 14. NRS 385.190 is hereby amended to read as follows:

385.190 1. The *State* Superintendent ~~[of Public Instruction]~~ *for Education, in consultation with the Division of Innovation, Research and*

Professional Development or a staff member designated by ~~[him]~~ *the State Superintendent*, shall:

(a) Convene teachers' conferences in the various sections of the State in such places and at such times as he deems advisable.

(b) Engage such conference lecturers and leaders as he deems advisable.

(c) Preside over and regulate the programs of all teachers' conferences.

2. No teachers' conference may continue more than 5 days.

3. The *State* Superintendent ~~[of Public Instruction]~~ *for Education, in consultation with the Division of Innovation, Research and Professional Development* or ~~[his designated]~~ *a* staff member *designated by the State Superintendent*, shall convene, in such places and at such times as he may designate, conferences of school administrators.

4. The expenses of holding teachers' and administrators' conferences must be paid from the State Distributive School Account in the State General Fund, but the amount must not exceed $8,400 in any one biennium. The State Controller shall draw his warrants for such expenses upon the order of the *State* Superintendent ~~[of Public Instruction.]~~ *for Education*.

Sec. 15. NRS 385.290 is hereby amended to read as follows:

385.290 1. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* may appoint a Deputy Superintendent of ~~[Instructional, Research and Evaluative Services]~~ *the Division of Curriculum and Instruction* who:

(a) Holds a master's degree in school administration or a related subject from an accredited college or university.

(b) Has a minimum of 3 years of administrative experience which includes:

(1) Supervision and evaluation of staff;

(2) Development and administration of budgets; and

(3) Development of curriculum.

2. The Deputy Superintendent of ~~[Instructional, Research and Evaluative Services]~~ *the Division of Curriculum and Instruction* may perform any duty required of the *State* Superintendent ~~[of Public Instruction]~~ *for Education* during the absence of the *State* Superintendent and shall do such work as the *State* Superintendent may direct under the laws of the State.

Sec. 16. NRS 385.300 is hereby amended to read as follows:

385.300 1. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* may appoint a Deputy Superintendent ~~[for Administrative and]~~ *of the Division of Operations*, Fiscal Services ~~[.]~~ *and Technology*.

2. The Deputy Superintendent ~~[for Administrative and]~~ *of the Division of Operations*, Fiscal Services *and Technology* must:

(a) Be a graduate of a 4-year accredited college or university.

(b) Have familiarity with the field of education, as evidenced by:

(1) Sufficient college credits in education to qualify for a license to teach in a high school in this state; or

(2) Participation in recognized educational research and study.

(c) Have familiarity with the general field of public administration and budgeting, as evidenced by:

(1) Sufficient college credits to qualify for a minor in public administration, government management or business management; or

(2) Experience in the preparation of governmental budgets or in governmental accounting or research.

3. No person may be appointed to the position of Deputy Superintendent ~~[for Administrative and]~~ *of the Division of Operations,* Fiscal Services *and Technology* unless he has the qualifications outlined in subsection 2.

Sec. 17. NRS 385.310 is hereby amended to read as follows:

385.310 The Deputy Superintendent ~~[for Administrative and]~~ *of the Division of Operations,* Fiscal Services ~~[,]~~ *and Technology,* under the direction of the *State* Superintendent ~~[of Public Instruction,]~~ *for Education,* shall:

1. Determine the apportionment of all state school money to schools of the State as prescribed by law.

2. Develop for public schools of the State a uniform system of budgeting and accounting. The system must provide for the separate reporting of expenditures for each:

(a) School district; and

(b) School within a school district.

➥ Upon approval of the State Board, the system is mandatory for all public schools in this State and must be enforced as provided in subsection 2 of NRS 385.315.

3. Carry on a continuing study of school finance in the State, particularly the method by which schools are financed on the state level, and make such recommendations to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* for submission to the State Board as he deems advisable.

4. Recommend to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* for submission to the State Board such changes in budgetary and financial procedures as his studies may show to be advisable.

5. Perform such other statistical and financial duties pertaining to the administration and finances of the schools of the State as may be required by the *State* Superintendent ~~[of Public Instruction.]~~ *for Education.*

6. Prepare for the *State* Superintendent ~~[of Public Instruction]~~ *for Education* the biennial budgets of the Department for consideration by the State Board and submission to the Governor.

Sec. 18. NRS 385.315 is hereby amended to read as follows:

385.315 In addition to his other duties, the Deputy Superintendent ~~[for Administrative and]~~ *of the Division of Operations,* Fiscal Services ~~[,]~~ *and Technology,* under the direction of the *State* Superintendent ~~[of Public Instruction,]~~ *for Education,* shall:

1. Investigate any claim against any school fund or separate account established under NRS 354.603 whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the

county auditor. If, upon investigation, the Deputy Superintendent finds that any such claim is unearned, illegal or unreasonably excessive, he shall notify the county auditor and the clerk of the board of trustees who drew the order for the claim, stating the reasons in writing why the order is unearned, illegal or excessive. If so notified, the county auditor shall not draw his warrant in payment of the claim nor shall the board of trustees draw a check or order in payment of the claim from a separate account established under NRS 354.603. If the Deputy Superintendent finds that any protested claim is legal and actually due the claimant, he shall authorize the county auditor or the board of trustees to draw his warrant or its check or order on an account established under NRS 354.603 for the claim, and the county auditor or the board of trustees shall immediately draw his warrant or its check or order in payment of the claim.

2. Inspect *and, if he determines necessary, audit* the record books and accounts of boards of trustees, and enforce the uniform method of keeping the financial records and accounts of school districts.

3. Inspect *and, if he determines necessary, audit* the school fund accounts of the county auditors of the several counties, and report the condition of the funds of any school district to the board of trustees thereof.

4. Inspect *and, if he determines necessary, audit* the separate accounts established by boards of trustees under NRS 354.603, and report the condition of the accounts to the respective boards of county commissioners and county treasurers.

Sec. 19. NRS 385.320 is hereby amended to read as follows:

385.320 The Deputy Superintendent of ~~[Instructional, Research and Evaluative Services and the Deputy Superintendent for Administrative and Fiscal Services:]~~ *each Division:*

1. ~~[Are]~~ *Is* in the unclassified service of the State.

2. Except as otherwise provided in NRS 284.143, shall ~~[each]~~ devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

Sec. 20. NRS 385.330 is hereby amended to read as follows:

385.330 1. Professional staff and other personnel appointed by the *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall perform such duties as are assigned by the *State* Superintendent.

2. The *State* Superintendent ~~[of Public Instruction,]~~ *for Education,* under the policies of the State Board, shall locate the offices of professional staff and other personnel ~~[where]~~ *:*

(a) Where the needs of the education program can best be served ~~[.]~~ *; and*

(b) To reflect the geographic diversity of this State.

Sec. 21. NRS 385.34691 is hereby amended to read as follows:

385.34691 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

(1) Employees of the Department;

(2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; ~~[and]~~

(4) At least one representative of ~~[the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516,]~~ *a regional training program for the professional development of teachers and administrators created pursuant to NRS 391.512,* appointed by the ~~[Council;]~~ *State Board;* and

(5) A representative from the Nevada Youth Legislative Issues Forum created by NRS 385.515, appointed by the Chairman of the Forum.

(b) May be prepared in consultation with:

(1) Representatives of ~~[institutions of higher education;]~~ *the colleges of education in the Nevada System of Higher Education;*

(2) Representatives of regional educational laboratories;

(3) Representatives of outside consultant groups;

(4) ~~[Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;~~

~~(5)]~~ The Bureau; and

~~[(6)]~~ *(5)* Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3469 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 common among the school districts or charter schools in this State, as 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 set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in public schools in this State, 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 , *improve the percentage of pupils who graduate with a high school diploma* and reduce the number of pupils who drop out of school;

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

(4) Manage effectively the discipline of pupils; and

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

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) *The availability of programs of career and technical education in public schools in this State;*

(2) The requirements for admission to an institution of ~~[higher]~~ *postsecondary* education and the opportunities for financial aid;

~~[(2)]~~ *(3)* The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.938, inclusive; and

~~[(3)]~~ *(4)* The need for a pupil to make informed decisions about his curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification ~~[, by category,]~~ of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively ~~[.]~~ , *including, without limitation, a description of the duties of those employees relating to the achievement of pupils and the support of the success of pupils in the classroom.*

(g) ~~[For]~~ *A timeline for carrying out the plan, including benchmarks that indicate the rate of improvement which must be attained annually and, 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.

(h) 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 , *improving the rate of pupils who graduate with a high school diploma* and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall

use the Department's own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(l) Strategies to increase the percentage of classes that are taught by highly qualified teachers in low-poverty schools.

3. The State Board shall:

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

(b) *Examine the timeline for implementing the plan and the timeline for implementing each provision of the plan to determine whether the annual benchmarks have been attained;*

(c) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that ~~[the]~~ *:*

(1) The benchmarks set forth in the plan are being attained in a timely manner; and

(2) The plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.

4. On or before December 15 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

(a) Governor;

(b) Committee;

(c) Bureau;

(d) Board of Regents of the University of Nevada;

(e) ~~[Council to Establish Academic Standards for Public Schools created by NRS 389.510;~~

~~(f)]~~ Board of trustees of each school district; and

~~[(g)]~~ *(f)* Governing body of each charter school.

Sec. 22. NRS 385.3782 is hereby amended to read as follows:

385.3782 *As used in NRS 385.3782 to 385.379, inclusive, unless the context otherwise requires,* "Account" means the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.

Sec. 23. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The ~~[Commission]~~ *State Board* 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; and

(4) Any other information that the ~~[Commission]~~ *State Board* 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. The ~~[Commission]~~ *State Board* 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]~~ *State Board* 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,]~~ *State Board or by an advisory committee appointed pursuant to subsection 9*, money must not be allocated from the Account for a grant until the entire membership of the ~~[Commission]~~ *State Board* 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 the plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(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]~~ *State Board* 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]~~ *State Board* shall comply with the requirements of subsection 1.

3. The ~~[Commission]~~ *State Board* 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]~~ *State Board* 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 ~~[.]~~ *; and*

(c) The status of the public schools in achieving the goals and measurable outcomes prescribed by the State Board pursuant to NRS 385.075,

➥ for consideration by the ~~[Commission]~~ *State Board* 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 the plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(b) Is developed in accordance with the criteria established by the ~~[Commission;]~~ *State Board;* 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]~~ *State Board* 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.

9. The State Board may appoint an advisory committee composed of six members who are qualified and who represent the ethnic and geographic diversity of the State to carry out the provisions of this section. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

Sec. 24. NRS 385.3787 is hereby amended to read as follows:

385.3787 1. A public school or consortium of public schools that receives an allocation of money from the Account shall:

(a) Account for the money separately;

(b) Use the money to supplement and not replace the money that would otherwise be expended by the school district or public school for the achievement of pupils in kindergarten through grade 6 or pupils in grades 7 through 12, as applicable; and

(c) Submit an evaluation of the effectiveness of the allocation in improving the achievement of pupils in kindergarten through grade 6 or pupils in grades 7 through 12, as applicable, in accordance with the criteria for evaluation established by the ~~[Commission]~~ *State Board* pursuant to NRS 385.3785.

2. A public school or consortium of public schools that receives an allocation of money from the Account shall not:

(a) Use the money to settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district or public school and the school district or public school, as applicable.

(b) Use the money to adjust the schedules of salaries and benefits of the employees of the school district or public school, as applicable.

Sec. 25. NRS 385.3789 is hereby amended to read as follows:

385.3789 1. The ~~[Commission]~~ *State Board* shall prepare an annual report that describes the distribution of money to the public schools and consortiums of public schools and the programs for which money was allocated from the Account, including, without limitation, the total amount of money allocated:

(a) To each consortium of public schools, with a designation of which public schools are included in each consortium;

(b) To each public school;

(c) To schools included on the list of priorities of schools provided by the Department pursuant to NRS 385.3785;

(d) For programs that provide services directly to pupils for remediation and innovation, including, without limitation, instruction, instructional materials and support materials;

(e) For programs that provide instructional support and have an indirect effect on pupils, including, without limitation, the provision of professional development for educational personnel and the employment of administrators; ~~[and]~~

(f) For each program, including, without limitation:

(1) A description of the program, including, without limitation, whether the program is available commercially;

(2) Whether the ~~[Commission]~~ *State Board* considers the program to be innovative;

(3) Whether the program includes the provision of professional development other than professional development that is related to carrying out a program that provides services directly to pupils;

(4) The costs to implement the program; and

(5) The full-time personnel necessary to implement the program, if any ~~[.]~~ *; and*

(g) For evaluations of the programs for which money was allocated from the Account pursuant to subsection 3 of NRS 385.379.

➥ The report must be submitted on or before September 1 of each year to the entities identified in subsection 3.

2. The ~~[Commission]~~ *State Board* shall:

(a) Prepare an annual report that describes:

(1) The activities of the ~~[Commission;]~~ *State Board relating to the provisions of NRS 385.3782 to 385.379, inclusive;*

(2) An analysis of the progress of *and strategies proposed by* the public schools in carrying out the plans to improve the achievement of pupils; and

(3) An analysis of the progress of *and strategies proposed by* the public schools and consortiums of public schools that received an allocation of money from the Account in improving the achievement of pupils.

(b) Submit the report on or before January 31 of each year to the entities identified in subsection 3.

3. The ~~[Commission]~~ *State Board* shall submit the reports required by this section to the:

(a) ~~[State Board;~~

~~(b)]~~ Governor;

~~[(c)]~~ *(b)* Committee;

~~[(d)]~~ *(c)* Bureau;

~~[(e)]~~ *(d)* Interim Finance Committee; and

~~[(f)]~~ *(e)* Board of trustees of each school district.

4. The Legislative Auditor shall audit biennially the programs for which public schools and consortiums of public schools receive an allocation of money. The audit may include a representative sample of programs, based upon geographic location and type of program. The Legislative Auditor shall report the results of each biennial audit to the entities prescribed in subsection 3.

Sec. 26. NRS 385.379 is hereby amended to read as follows:

385.379 1. The Account for Programs for Innovation and the Prevention of Remediation is hereby created in the State General Fund, to be administered by the *State* Superintendent ~~[of Public Instruction.]~~ *for Education.* The *State* Superintendent ~~[of Public Instruction]~~ *for Education* may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2 or 3. The interest and income earned on the sum of:

(a) The money in the Account; and

(b) Unexpended appropriations made to the Account from the State General Fund,

➥ must be credited to the Account. 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.

2. Except as otherwise provided in ~~[NRS 385.3784 and]~~ subsection 3, the money in the Account may only be used for the allocation of money to public schools and consortiums of public schools whose applications are approved by the ~~[Commission]~~ *State Board* pursuant to NRS 385.3785.

3. Upon the request of the ~~[Commission:]~~ *State Board:*

(a) Not more than $50,000 in the Account may be used each biennium to pay:

(1) The expenses incurred by members of the ~~[Commission]~~ *State Board* to travel to the public schools and consortiums of public schools that received allocations of money from the Account; and

(2) The costs incurred by the ~~[Commission]~~ *State Board* to hold meetings or conferences for representatives of public schools and consortiums of schools that received allocations of money from the Account to discuss or display, or both, programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(b) Not more than $450,000 in the Account may be used each biennium to pay for an evaluation of the programs for which money was allocated from the Account. If the ~~[Commission]~~ *State Board* uses money in the Account for such an evaluation, the ~~[Commission]~~ *State Board* shall ensure that:

(1) A request for proposals is issued and a qualified, independent consultant is selected to conduct the evaluation;

(2) Upon selection of the consultant, the ~~[Commission]~~ *State Board* receives approval of the consultant and the plan for the evaluation from the Committee;

(3) The evaluation is designed to determine the effectiveness of the programs for which money was allocated from the Account in improving the achievement of pupils;

(4) The evaluation includes an identification of the programs for which money was allocated from the Account that did not improve the achievement of pupils as described in the approved application for the grant;

(5) The evaluation includes an identification of the public schools and consortiums of public schools that did not implement the programs for which money was allocated from the Account as described in the approved application for the grant; and

(6) The evaluation includes a compilation and review of each evaluation required to be submitted by public schools and consortiums of public schools pursuant to NRS 385.3787.

Sec. 27. 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]~~ *State Board* pursuant to NRS 385.3785, 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. 28. 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;

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 *State Board and 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 State Board and* 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. 29. NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(b) The count of pupils computed pursuant to paragraph (a) of subsection 1 of NRS 387.1233.

(c) The school district's actual expenditures in the fiscal year immediately preceding the report.

(d) The school district's proposed expenditures for the current fiscal year.

(e) The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

(f) The number of employees who received an increase in salary pursuant to subsection ~~[2, 3 or 4]~~ *3, 4 or 5* of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection ~~[2]~~ *3* of NRS 391.160, the board of trustees shall submit a supplemental report to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

(g) The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

(h) The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

(i) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

(j) The expenditures from the account created pursuant to subsection ~~[3]~~ *4* of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year, and the specific amount spent on books and computer hardware and software for each grade level in the district.

2. On or before November 25 of each year, the *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the *State* Superintendent ~~[of Public Instruction:]~~ *for Education:*

(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;

(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic

support guarantee for inclusion in the biennial budget request to the Department of Administration; and

(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. The request prepared pursuant to subsection 3 must:

(a) Be presented by the *State* Superintendent ~~[of Public Instruction]~~ *for Education* to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.

Sec. 30. NRS 388.787 is hereby amended to read as follows:

388.787 *As used in NRS 388.787 to 388.805, inclusive, unless the context otherwise requires,* "Committee" means the Legislative Committee on Education created pursuant to NRS 218.5352.

Sec. 31. NRS 388.795 is hereby amended to read as follows:

388.795 1. The ~~[Commission]~~ *State Board* shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the ~~[Commission]~~ *State Board* 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;

(d) The results of the assessment of needs conducted pursuant to subsection ~~[6;]~~ *5;* and

(e) Any other information that the ~~[Commission]~~ *State Board* or the Committee deems relevant to the preparation of the plan.

2. The plan established by the ~~[Commission]~~ *State Board* 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]~~ *State Board* in carrying out the provisions of this section:

(a) ~~[The State Board.~~

~~(b)]~~ The board of trustees of each school district.

~~[(c)]~~ *(b)* The superintendent of schools of each school district.

~~[(d)]~~ *(c)* The Department ~~[.~~

~~5.]~~ *, including specifically the Division of Operations, Fiscal Services and Technology.*

4. The ~~[Commission]~~ *State Board* 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]~~ *State Board* 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]~~ *State Board* deems necessary.

~~[6.]~~ *5.* During the spring semester of each even-numbered school year, the ~~[Commission]~~ *State Board* shall conduct an assessment of the needs of

each school district relating to educational technology. In conducting the assessment, the ~~[Commission]~~ *State Board* 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.]~~ *State Board.*

➥ The ~~[Commission]~~ *State Board* shall submit a final written report of the assessment to the *State* Superintendent ~~[of Public Instruction]~~ *for Education* on or before April 1 of each even-numbered year.

~~[7.]~~ *6.* The *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall prepare a written compilation of the results of the assessment conducted by the ~~[Commission]~~ *State Board* 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.]~~ *7.* The ~~[Commission]~~ *State Board* may appoint an advisory committee composed of *six* members ~~[of the Commission or other qualified persons]~~ *who are qualified and who represent the ethnic and geographic diversity of this State* to provide recommendations to the ~~[Commission]~~ *State Board* 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]~~ *State Board* and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

~~[9.]~~ *8.* 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. 32. 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 *State* Superintendent ~~[of Public Instruction.]~~ *for Education.* 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 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]~~ *State Board* for use in classrooms.

Sec. 33. NRS 388.805 is hereby amended to read as follows:

388.805 The ~~[Department shall, in consultation with the Commission,]~~ *State Board shall* adopt regulations that establish a program whereby school districts may apply to the ~~[Commission on Educational Technology]~~ *State Board* for money from the Trust Fund for Educational Technology.

Sec. 34. NRS 389.012 is hereby amended to read as follows:

389.012 1. The State Board shall:

(a) In accordance with guidelines established by the National Assessment Governing Board and National Center for Education Statistics and in accordance with 20 U.S.C. §§ 6301 et seq. and the regulations adopted pursuant thereto, adopt regulations requiring the schools of this State that are selected by the National Assessment Governing Board or the National Center for Education Statistics to participate in the examinations of the National Assessment of Educational Progress.

(b) Report the results of those examinations to the:

(1) Governor;

(2) Board of trustees of each school district of this State;

(3) Legislative Committee on Education created pursuant to NRS 218.5352; and

(4) Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356.

(c) Include in the report required pursuant to paragraph (b) an analysis and comparison of the results of pupils in this State on the examinations required by this section with:

(1) The results of pupils throughout this country who participated in the examinations of the National Assessment of Educational Progress; and

(2) The results of pupils on the achievement and proficiency examinations administered pursuant to this chapter.

2. If the report required by subsection 1 indicates that the percentage of pupils enrolled in the public schools in this State who are proficient on the National Assessment of Educational Progress differs by more than 10 percent of the pupils who are proficient on the examinations administered pursuant to NRS 389.550 and the high school proficiency examination administered pursuant to NRS 389.015, the Department shall prepare a written report describing the discrepancy. The report must include, without limitation, a comparison and evaluation of:

(a) The standards of content and performance for English and mathematics established pursuant to NRS 389.520 with the standards for English and mathematics that are tested on the National Assessment.

(b) The standards for proficiency established for the National Assessment with the standards for proficiency established for the examinations that are administered pursuant to NRS 389.550 and the high school proficiency examination administered pursuant to NRS 389.015.

3. The report prepared by the Department pursuant to subsection 2 must be submitted to the:

(a) Governor;

(b) Legislative Committee on Education;

(c) Legislative Bureau of Educational Accountability and Program Evaluation; and

(d) ~~[Council to Establish Academic Standards for Public Schools.]~~ *State Board.*

4. The ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* shall review and evaluate the report provided to the ~~[Council]~~ *State Board* pursuant to subsection 3 to identify any discrepancies in the standards of content and performance established by the ~~[Council]~~ *State Board* that require revision and a timeline for carrying out the revision, if necessary. The ~~[Council]~~ *State Board* shall submit a written report of its review and evaluation to the Legislative Committee on Education and Legislative Bureau of Educational Accountability and Program Evaluation.

Sec. 35. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

(a) Reading;

(b) Mathematics; and

(c) Science.

2. The examinations required by subsection 1 must be:

(a) Administered before the completion of grades 4, 7, 10 and 11.

(b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the

examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

➥ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, he may be promoted to the next higher grade, but the results of his examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section 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 pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. If a pupil fails to pass the high school proficiency examination, he must not be graduated unless he:

(a) Is able, through remedial study, to pass the proficiency examination; or

(b) Passes *at least two of* the subject areas ~~[of mathematics and reading]~~ tested on the proficiency examination, has at least a ~~[2.75]~~ *2.0* grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805,

➥ but he may be given a certificate of attendance, in place of a diploma, if he has reached the age of 18 years.

6. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his duties.

(c) That specific questions and answers may be disclosed if the *State* Superintendent ~~[of Public Instruction]~~ *for Education* determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

Sec. 36. NRS 389.019 is hereby amended to read as follows:

389.019 Except as otherwise provided in NRS 389.180, boards of trustees of school districts in this State shall enforce in schools:

1. The standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* and the courses of study related to those standards; and

2. The courses of study prescribed and adopted by the State Board.

Sec. 37. NRS 389.520 is hereby amended to read as follows:

389.520 1. The ~~[Council]~~ *State Board* shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection 2, based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English, including reading, composition and writing;

(2) Mathematics;

(3) Science;

(4) Social studies, which includes only the subjects of history, geography, economics and government;

(5) The arts;

(6) Computer education and technology;

(7) Health; and

(8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The ~~[Council]~~ *State Board* shall establish *and adopt* standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The ~~[Council]~~ *State Board* shall establish *and adopt* standards of content and performance for the grade levels selected by the ~~[Council]~~ *State Board* for the other courses of study prescribed in subsection 1.

3. ~~[The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:~~

~~(a) Adopt the standards for each course of study, as submitted by the Council; or~~

~~(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.~~

~~4. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:~~

~~(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and~~

~~(b) Return the standards or the revised standards, as applicable, to the State Board.~~

~~➥ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.~~

~~5. The Council shall work in cooperation with the]~~ *The* State Board ~~[to]~~ *shall* prescribe the examinations required by NRS 389.550.

Sec. 38. NRS 389.530 is hereby amended to read as follows:

389.530 ~~[1. The Department shall provide:~~

~~(a) Administrative support;~~

~~(b) Equipment; and~~

~~(c) Office space,~~

~~➥ as is necessary for the Council to carry out its duties.~~

~~2. The Council may request assistance from any agency of this state if the assistance is necessary for the Council to carry out its duties.]~~ *The State Board may appoint an advisory committee composed of six members who are qualified and who represent the ethnic and geographic diversity of this State to carry out the provisions of NRS 389.520 to 389.570, inclusive. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.*

Sec. 39. NRS 389.540 is hereby amended to read as follows:

389.540 The board of trustees of each school district shall conduct a periodic review of the courses of study offered in the public schools of the school district to determine whether the courses of study comply with the standards of content and performance established by the ~~[Council]~~ *State Board* pursuant to NRS 389.520 and if revision of the courses of study is necessary to ensure compliance.

Sec. 40. NRS 389.550 is hereby amended to read as follows:

389.550 1. The State Board shall ~~[, in consultation with the Council,]~~ prescribe examinations that comply with 20 U.S.C. § 6311(b)(3) and that measure the achievement and proficiency of pupils:

(a) For grades 3, 4, 5, 6, 7 and 8 in the standards of content established by the ~~[Council]~~ *State Board* for the subjects of English and mathematics.

(b) For grades 5 and 8, in the standards of content established by the ~~[Council]~~ *State Board* for the subject of science.

➥ The examinations prescribed pursuant to this subsection must be written, developed, printed and scored by a nationally recognized testing company.

2. In addition to the examinations prescribed pursuant to subsection 1, the State Board shall ~~[, in consultation with the Council,]~~ prescribe a writing examination for grades 5 and 8 and for the high school proficiency examination.

3. The board of trustees of each school district and the governing body of each charter school shall administer the examinations prescribed by the State Board. The examinations must be:

(a) Administered to pupils in each school district and each charter school at the same time during the spring semester, as prescribed by the State Board.

(b) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the school districts and individual schools to ensure compliance with the uniform procedures.

(c) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

Sec. 41. NRS 389.560 is hereby amended to read as follows:

389.560 1. The State Board shall adopt regulations that require the board of trustees of each school district and the governing body of each charter school to submit to the *State* Superintendent ~~[of Public Instruction,]~~ *for Education,* the Department and the ~~[Council,]~~ *State Board,* in the form and manner prescribed by the Superintendent, the results of the examinations administered pursuant to NRS 389.550. The State Board shall not include in the regulations any provision that would violate the confidentiality of the test scores of an individual pupil.

2. The results of the examinations must be reported for each school, including, without limitation, each charter school, school district and this State, as follows:

(a) The percentage of pupils who have demonstrated proficiency, as defined by the Department, and took the examinations under regular testing conditions; and

(b) The percentage of pupils who have demonstrated proficiency, as defined by the Department, and took the examinations with modifications or accommodations, if such reporting does not violate the confidentiality of the test scores of any individual pupil.

3. Not later than 10 days after the Department receives the results of the examinations, the Department shall transmit a copy of the results to the Legislative Bureau of Educational Accountability and Program Evaluation in a manner that does not violate the confidentiality of the test scores of any individual pupil.

4. On or before July 1 of each year, each school district and each charter school shall report to the Department the following information for each examination administered in the public schools in the school district or charter school:

(a) The examination administered;

(b) The grade level or levels of pupils to whom the examination was administered;

(c) The costs incurred by the school district or charter school in administering each examination; and

(d) The purpose, if any, for which the results of the examination are used by the school district or charter school.

➥ On or before September 1 of each year, the Department shall transmit to the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau the information submitted to the Department pursuant to this subsection.

5. The superintendent of schools of each school district and the governing body of each charter school shall certify that the number of pupils who took the examinations is equal to the number of pupils who are enrolled

in each school in the school district or in the charter school who are required to take the examinations.

6. In addition to the information required by subsection 4, the *State* Superintendent ~~[of Public Instruction]~~ *for Education* shall:

(a) Report the number of pupils who were not exempt from taking the examinations but were absent from school on the day that the examinations were administered; and

(b) Reconcile the number of pupils who were required to take the examinations with the number of pupils who were exempt from taking the examinations or absent from school on the day that the examinations were administered.

Sec. 42. NRS 389.570 is hereby amended to read as follows:

389.570 1. The ~~[Council]~~ *State Board* shall review the results of pupils on the examinations administered pursuant to NRS 389.550, including, without limitation, for each school in a school district and each charter school that is located within a school district, a review of the results for the current school year and a comparison of the progress, if any, made by the pupils enrolled in the school from preceding school years.

2. After the completion of the review pursuant to subsection 1, the ~~[Council]~~ *State Board* shall evaluate:

(a) Whether the standards of content and performance established by the ~~[Council]~~ *State Board* require revision; and

(b) The success of pupils, as measured by the results of the examinations, in achieving the standards of performance established by the ~~[Council.]~~ *State Board.*

3. The ~~[Council]~~ *State Board* shall report the results of the evaluation conducted pursuant to subsection 2 to the ~~[State Board and the]~~ Legislative Committee on Education.

Sec. 43. NRS 389.805 is hereby amended to read as follows:

389.805 1. A pupil must receive a standard high school diploma if he:

(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or

(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety ~~[not less than three times before beginning grade 12 and the pupil:]~~ *and:*

(1) Passes *at least two of* the subject areas ~~[of mathematics and reading]~~ on the proficiency examination;

(2) Has an overall grade point average of not less than ~~[2.75]~~ *2.0* on a 4.0 grading scale;

(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection 3; and

(4) Otherwise satisfies the requirements for graduation from high school.

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if he satisfies the requirements set forth in his individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

3. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:

(a) An essay;

(b) A senior project; or

(c) A portfolio of work,

➥ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.

Sec. 44. NRS 390.140 is hereby amended to read as follows:

390.140 1. The State Board shall make the final selection of all textbooks to be used in the public schools in this State, except for charter schools. If a textbook proposed for selection is in a subject area for which standards of content have been established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520, the State Board shall not select the textbook unless the State Board determines that the textbook adequately supports the standards for that subject area.

2. A textbook must not be selected by the State Board pursuant to subsection 1 for use in the public schools in classes in literature, history or social sciences unless it accurately portrays the cultural and racial diversity of our society, including lessons on the contributions made to our society by men and women from various racial and ethnic backgrounds.

Sec. 45. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections *45.5,* 46 and 47 of this act.

Sec. 45.5. *Notwithstanding any other provision of law, a teacher who holds an endorsement in the field of mathematics, science or special education may negotiate his salary with the board of trustees of the school district or the governing body of the charter school that employs the teacher if the contract negotiated between the teacher and the school district or governing body provides, at a minimum, the same terms and conditions available to other teachers employed by the school district or governing body, including, without limitation, protection from discrimination, no-strike provisions consistent with the provisions of chapter 288 of NRS, minimum compensation and safety considerations.*

Sec. 46. *The State Board may appoint an advisory committee composed of six members who are qualified and who represent the ethnic and geographic diversity of this State to advise the State Board in carrying out the provisions of this chapter. The advisory committee serves at the pleasure*

of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

Sec. 47. *1. Within the limits of available money, the Department shall establish a program of performance pay for voluntary participation by licensed educational personnel and other school personnel of public schools that demonstrate improvement and exceptional performance.*

2. The program must prescribe a formula for determining the classroom performance of each teacher who voluntarily participates in the program, which must give equal consideration to:

(a) The achievement and progress made by the pupils enrolled in the teacher's classroom, as measured by the model adopted pursuant to section 5 of this act; and

(b) The professional accomplishments of the teacher, as evidenced by:

(1) Evaluations of the teacher conducted in accordance with the policies adopted pursuant to NRS 391.3125;

(2) The participation of the teacher in professional development and other training;

(3) The results of peer reviews and parent satisfaction surveys concerning the school, if enough completed surveys are available to assess performance; and

(4) Any other measure of the professional accomplishments of the teacher deemed appropriate by the Department.

3. The program must prescribe a formula for determining the performance of each public school for purposes of awarding enhanced performance pay to other school personnel who voluntarily participate in the program and who are not teachers. The formula must give equal consideration to:

(a) The achievement and progress of pupils enrolled in the public school which is tracked from year to year to determine whether the school has made progress in the achievement of pupils, as measured by the model adopted pursuant to section 5 of this act; and

(b) The professional accomplishments of the school personnel, as evidenced by:

(1) The participation of the school personnel in development and training in their area of employment;

(2) The results of parent satisfaction surveys concerning the school, if enough completed surveys are available to assess the performance of the school; and

(3) Any other measure of the accomplishments of school personnel deemed appropriate by the Department.

4. The Department shall provide enhanced compensation to licensed educational personnel and other school personnel who voluntarily participate in the program and, as calculated pursuant to this section, are in the top quartile of progress in pupil achievement and professional accomplishment.

Sec. 48. NRS 391.008 is hereby amended to read as follows:

391.008 1. ~~["Paraprofessional"]~~ *As used in this chapter, unless the context otherwise requires, "paraprofessional"* means a person who is employed by and assigned by a school district or charter school to:

(a) Provide one-on-one tutoring for a pupil;

(b) Assist with the management of a classroom, including, without limitation, organizing instructional materials;

(c) Provide assistance in a computer laboratory;

(d) Conduct parental involvement activities in conjunction with one or more duties set forth in this subsection;

(e) Provide support in a library or media center;

(f) Except as otherwise provided in subsection 2, provide services as a translator; or

(g) Provide instructional services to pupils under the direct supervision of a licensed teacher.

2. The term "paraprofessional" does not include a person who:

(a) Is proficient in the English language and a language other than English and who provides services as a translator primarily to enhance the participation of children in programs that are financially supported pursuant to the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq.

(b) Solely conducts parental involvement activities.

Sec. 49. NRS 391.019 is hereby amended to read as follows:

391.019 1. ~~[Except as otherwise provided in NRS 391.027, the Commission:]~~ *The State Board:*

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses.

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(11) If the ~~[Commission]~~ *State Board* approves the Passport to Teaching certification from the American Board for Certification of Teacher Excellence as an alternative route to licensure, providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence;

(II) Passes each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; and

(III) Agrees to participate in a program of mentoring prescribed by the ~~[Commission]~~ *State Board* for the first year of his employment as a teacher with a school district or charter school.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the ~~[Commission.]~~ *State Board.*

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7), (10) or (11) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 50. NRS 391.019 is hereby amended to read as follows:

391.019 1. ~~[Except as otherwise provided in NRS 391.027, the Commission:]~~ *The State Board:*

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses.

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the ~~[Commission.]~~ *State Board.*

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 51. NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in subparagraph (10) of paragraph (a) of subsection 1 of NRS 391.019 ~~[and NRS 391.027, the Commission]~~ *, the State Board* shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and his knowledge of each specific subject he proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;
2. The Constitution of the State of Nevada; and
3. The Constitution of the United States.

➥ The provisions of this section do not prohibit the ~~[Commission]~~ *State Board* from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel who have previous experience in teaching or performing other educational functions in another state.

Sec. 52. NRS 391.023 is hereby amended to read as follows:

391.023 The ~~[Commission]~~ *State Board* may adopt regulations which provide relief from the strict application of the terms of its regulations relating to the licensure of teachers and other educational personnel for the resolution of medical or administrative conflicts. The conflicts must be resolved within 6 months after the date the relief is granted.

Sec. 53. NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.

2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the ~~[Commission.]~~ *State Board.*

3. A license to teach secondary education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in any secondary school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the ~~[Commission.]~~ *State Board.*

4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the ~~[Commission]~~ *State Board* adopted pursuant to subparagraph (7), (10) or (11) of paragraph (a) of subsection 1 of NRS 391.019.

Sec. 54. NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.

2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the ~~[Commission.]~~ *State Board.*

3. A license to teach secondary education, which authorizes the holder to teach in his major or minor field of preparation or in both fields in any secondary school. He may teach only in these fields unless an exception is approved pursuant to regulations adopted by the ~~[Commission.]~~ *State Board.*

4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the ~~[Commission]~~ *State Board* adopted pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1 of NRS 391.019.

Sec. 55. NRS 391.032 is hereby amended to read as follows:

391.032 1. ~~[Except as otherwise provided in NRS 391.027, the Commission]~~ *The State Board* shall:

(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel before completion of all courses of study or other requirements for a license in this State.

(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states.

2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel who have previous experience in teaching or performing other educational functions in another state. If the ~~[Commission]~~ *State Board* adopts regulations providing such an exemption, the ~~[Commission]~~ *State Board* shall identify the examinations to which the exemption applies.

3. A person who is issued a conditional license must complete all courses of study and other requirements for a license in this State which is not conditional within 3 years after the date on which a conditional license is issued.

Sec. 56. NRS 391.033 is hereby amended to read as follows:

391.033 1. All licenses for teachers and other educational personnel are granted by the *State* Superintendent ~~[of Public Instruction]~~ *for Education* pursuant to regulations adopted by the ~~[Commission]~~ *State Board* and as otherwise provided by law.

2. An application for the issuance of a license must include the social security number of the applicant.

3. Every applicant for a license must submit with his application a complete set of his fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

4. The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if he determines that the applicant is otherwise qualified.

5. A license must be issued to an applicant if:

(a) The Superintendent determines that the applicant is qualified;

(b) The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History:

(1) Do not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or

(2) Indicate that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or charter school for which the applicant applied; and

(c) The applicant submits the statement required pursuant to NRS 391.034.

Sec. 57. NRS 391.038 is hereby amended to read as follows:

391.038 1. The State Board, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers, the board of trustees of each school district in this State and other educational personnel, shall review and evaluate a course of study and training offered by an educational institution which is designed to provide the education required for:

(a) The licensure of teachers or other educational personnel;

(b) The renewal of licenses of teachers or other educational personnel; or

(c) An endorsement in a field of specialization.

➥ If the course of study and training meets the requirements established by the State Board, it must be approved by the State Board. The State Board shall not approve a course of study or training unless the course of study and training provides instruction, to the extent deemed necessary by the State Board, in the standards of content and performance prescribed by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520.

2. The State Board may review and evaluate such courses of study and training itself or may recognize a course of study and training approved by a national agency for accreditation acceptable to the Board.

3. The State Board shall adopt regulations establishing fees for the review by the Board of a course of study and training submitted to the Board by an educational institution.

4. The State Board, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers and other educational personnel, and the Nevada Association of Colleges for Teacher Education and the Nevada Association of Teacher Educators, shall adopt regulations governing the approval by the State Board of courses of study and training which are accredited by the National Council for Accreditation of Teacher Education, and those which are not so accredited.

5. If the State Board denies or withdraws its approval of a course of study or training, the educational institution is entitled to a hearing and judicial review of the decision of the State Board.

Sec. 58. NRS 391.160 is hereby amended to read as follows:

391.160 1. The salaries of teachers and other employees must be determined by the character of the service required. A school district shall not discriminate between male and female employees in the matter of salary.

2. *The board of trustees of each school district shall adjust the schedule of salaries of the school district to ensure that the starting salary of each licensed teacher who is initially hired by the school district on or after July 1, 2010, is at least $40,000 annually. For the purposes of this subsection, a person is not "initially hired" if he has been employed as a licensed teacher by another school district or charter school in this State*

without an interruption in employment before the date of hire by his current employer.

3. Each year when determining the salary of a teacher who holds certification issued by the National Board for Professional Teaching Standards, a school district shall add 5 percent to the salary that the teacher would otherwise receive in 1 year for his classification on the schedule of salaries for the school district if:

(a) On or before January 31 of the school year, the teacher has submitted evidence satisfactory to the school district of his current certification; and

(b) The teacher is assigned by the school district to provide classroom instruction during that school year.

➥ No increase in salary may be given pursuant to this subsection during a particular school year to a teacher who submits evidence of certification after January 31 of that school year. For the first school year that a teacher submits evidence of his current certification, the board of trustees of the school district to whom the evidence was submitted shall pay the increase in salary required by this subsection retroactively to the beginning of that school year. Once a teacher has submitted evidence of such certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the teacher may otherwise be entitled.

~~[3.]~~ *4.* Each year when determining the salary of a person who is employed by a school district as a speech pathologist, the school district shall add 5 percent to the salary that the employee would otherwise receive in 1 year for his classification on the schedule of salaries for the school district if:

(a) On or before September 15 of the school year, the employee has submitted evidence satisfactory to the school district of his:

(1) Licensure as a speech pathologist by the Board of Examiners for Audiology and Speech Pathology; and

(2) Certification as being clinically competent in speech-language pathology by:

(I) The American Speech-Language-Hearing Association; or

(II) A successor organization to the American Speech-Language-Hearing Association that is recognized and determined to be acceptable by the Board of Examiners for Audiology and Speech Pathology; and

(b) The employee is assigned by the school district to serve as a speech pathologist during the school year.

➥ No increase in salary may be given pursuant to this subsection during a particular school year to an employee who submits evidence of licensure and certification after September 15 of that school year. Once an employee has submitted evidence of such licensure and certification to the school district, the school district shall retain the evidence in its records, as applicable, for

future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the employee may otherwise be entitled.

~~[4.]~~ *5.* Each year when determining the salary of a person who is employed by a school district as a professional school library media specialist, the school district shall add 5 percent to the salary that the employee would otherwise receive in 1 year for his classification on the schedule of salaries of the school district if:

(a) On or before September 15 of the school year, the employee has submitted evidence satisfactory to the school district of his current certification as a professional school library media specialist issued by the National Board for Professional Teaching Standards; and

(b) The employee is assigned by the school district to serve as a professional school library media specialist during that school year.

➥ No increase in salary may be given pursuant to this subsection during a particular school year to an employee who submits evidence of certification after September 15 of that school year. Once an employee has submitted evidence of such certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the employee may otherwise be entitled.

~~[5.]~~ *6.* In determining the salary of a licensed teacher who is employed by a school district after the teacher has been employed by another school district in this State, the present employer shall, except as otherwise provided in subsection ~~[8.]~~ *9:*

(a) Give the teacher the same credit for previous teaching service as he was receiving from his former employer at the end of his former employment;

(b) Give the teacher credit for his final year of service with his former employer, if credit for that service is not included in credit given pursuant to paragraph (a); and

(c) Place the teacher on the schedule of salaries of the school district in a classification that is commensurate with the level of education acquired by the teacher, as set forth in the applicable negotiated agreement with the present employer.

~~[6.]~~ *7.* A school district may give the credit required by subsection ~~[5]~~ *6* for previous teaching service earned in another state if the ~~[Commission]~~ *State Board* has approved the standards for licensing teachers of that state. The ~~[Commission]~~ *State Board* shall adopt regulations that establish the criteria by which the ~~[Commission]~~ *State Board* will consider the standards for licensing teachers of other states for the purposes of this subsection. The criteria may include, without limitation, whether the ~~[Commission]~~ *State Board* has authorized reciprocal licensure of educational personnel from the state under consideration.

~~[7.]~~ *8.* In determining the salary of a licensed administrator, other than the superintendent of schools, who is employed by a school district after the administrator has been employed by another school district in this State, the present employer shall, except as otherwise provided in subsection ~~[8.]~~ *9:*

(a) Give the administrator the same credit for previous administrative service as he was receiving from his former employer, at the end of his former employment;

(b) Give the administrator credit for his final year of service with his former employer, if credit for that service is not otherwise included in the credit given pursuant to paragraph (a); and

(c) Place the administrator on the schedule of salaries of the school district in a classification that is comparable to the classification the administrator had attained on the schedule of salaries of his former employer.

~~[8.]~~ *9.* This section does not:

(a) Require a school district to allow a teacher or administrator more credit for previous teaching or administrative service than the maximum credit for teaching or administrative experience provided for in the schedule of salaries established by it for its licensed personnel.

(b) Permit a school district to deny a teacher or administrator credit for his previous teaching or administrative service on the ground that the service differs in kind from the teaching or administrative experience for which credit is otherwise given by the school district.

~~[9.]~~ *10.* As used in this section:

(a) "Previous administrative service" means the total of:

(1) Any period of administrative service for which an administrator received credit from his former employer at the beginning of his former employment; and

(2) His period of administrative service in his former employment.

(b) "Previous teaching service" means the total of:

(1) Any period of teaching service for which a teacher received credit from his former employer at the beginning of his former employment; and

(2) His period of teaching service in his former employment.

Sec. 59. NRS 391.504 is hereby amended to read as follows:

391.504 ~~["Regional]~~ *As used in NRS 391.504 to 391.556, inclusive, unless the context otherwise requires, "regional* training program" means a regional training program for the professional development of teachers and administrators created pursuant to NRS 391.512.

Sec. 60. NRS 391.520 is hereby amended to read as follows:

391.520 1. The ~~[Statewide Council shall meet not less than four times per year.~~

~~2. The Statewide Council shall:~~

~~(a) Adopt]~~ *State Board, in consultation with the Division of Innovation, Research and Professional Development of the Department, shall adopt* uniform standards for use by the governing body of each regional training program in the review and approval by the governing body of the training to

be provided by the regional training program pursuant to NRS 391.540 and 391.544. The standards must ensure that the training provided by the regional training programs includes activities set forth in 20 U.S.C. § 7801(34), as appropriate for the type of training offered, is of high quality and is effective in addressing the training programs specified in subsection 1 of NRS 391.544.

~~[(b)]~~ *2. The Division of Innovation, Research and Professional Development shall:*

(a) Coordinate the dissemination of information to school districts, administrators and teachers concerning the training, programs and services provided by the regional training programs.

~~[(c)]~~ *(b)* Disseminate information to the regional training programs concerning innovative and effective methods to provide professional development.

~~[(d)]~~ *(c)* Conduct long-range planning concerning the professional development needs of teachers and administrators employed in this state.

~~[(e)]~~ *(d)* Adopt uniform procedures for use by the governing body of each regional training program to report the evaluation conducted pursuant to NRS 391.552.

3. The ~~[Statewide Council]~~ *Division of Innovation, Research and Professional Development* may:

(a) Accept gifts and grants from any source for use by the ~~[Statewide Council]~~ *Division* in carrying out its duties pursuant to this section and accept gifts and grants from any source on behalf of one or more regional training programs to assist with the training provided pursuant to NRS 391.544; and

(b) Comply with applicable federal laws and regulations governing the provision of federal grants to assist the ~~[Statewide Council]~~ *Division* in carrying out its duties pursuant to this section and comply with applicable federal laws and regulations governing the provision of federal grants to assist with the training provided pursuant to NRS 391.544, including, without limitation, providing money from the budget of the ~~[Statewide Council]~~ *Division* to match the money received from a federal grant.

4. The State Board may appoint an advisory committee composed of six members who are qualified and who represent the regional training programs and educational personnel to advise the State Board and the Division of Innovation, Research and Professional Development in carrying out the provisions of NRS 391.504 to 391.556, inclusive. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

Sec. 61. NRS 391.532 is hereby amended to read as follows:

391.532 1. The governing body of each regional training program shall:

(a) Employ or otherwise contract with a coordinator of the program, who serves at the pleasure of the governing body.

(b) Set the salary or other compensation of the coordinator.

2. The coordinator of each regional training program shall:

(a) ~~[Serve on the Statewide Council;~~

~~(b)]~~ Assist in the evaluation of the regional training program, as directed by the governing body; and

~~[(c)]~~ *(b)* Perform such other duties as directed by the governing body.

Sec. 62. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers in the standards established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

(1) Phonemic awareness;

(2) Phonics;

(3) Vocabulary;

(4) Fluency;

(5) Comprehension; and

(6) Motivation.

(c) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

➥ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 63. NRS 391.552 is hereby amended to read as follows:

391.552 The governing body of each regional training program shall:

1. Establish a method for the evaluation of the success of the regional training program, including, without limitation, the Nevada Early Literacy Intervention Program. The method must be consistent with the uniform procedures adopted by the ~~[Statewide Council]~~ *Division of Innovation, Research and Professional Development of the Department* pursuant to NRS 391.520.

2. On or before September 1 of each year, submit an annual report to the State Board, ~~[the Commission,]~~ the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes:

(a) The priorities for training adopted by the governing body pursuant to NRS 391.540.

(b) The type of training offered through the program in the immediately preceding year.

(c) The number of teachers and administrators who received training through the program in the immediately preceding year.

(d) The number of paraprofessionals, if any, who received training through the program in the immediately preceding year.

(e) An evaluation of the success of the program, including, without limitation, the Nevada Early Literacy Intervention Program, in accordance with the method established pursuant to subsection 1.

(f) A description of the gifts and grants, if any, received by the governing body in the immediately preceding year and the gifts and grants, if any, received by the ~~[Statewide Council]~~ *Division of Innovation, Research and Professional Development* during the immediately preceding year on behalf of the regional training program. The description must include the manner in which the gifts and grants were expended.

(g) The 5-year plan for the program prepared pursuant to NRS 391.540 and any revisions to the plan made by the governing body in the immediately preceding year.

Sec. 64. NRS 391.556 is hereby amended to read as follows:

391.556 The board of trustees of each school district shall submit an annual report to the State Board, ~~[the Commission,]~~ the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes for the immediately preceding year:

1. The number of teachers and administrators employed by the school district who received training through the program; and

2. An evaluation of whether that training included the standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *State Board* pursuant to NRS 389.520.

Sec. 65. NRS 396.5195 is hereby amended to read as follows:

396.5195 The Board of Regents shall, in cooperation with the State Board , ~~[and the Council to Establish Academic Standards for Public Schools,]~~ ensure that students enrolled in a program developed by the System for the education of teachers are provided instruction regarding the standards of content and performance required of pupils enrolled in high schools in this State.

Sec. 66. ~~[NRS 400.035 is hereby amended to read as follows:~~

~~400.035 1. The Council shall meet at least once each calendar quarter and as frequently as necessary to afford the general public, representatives of governmental agencies and representatives of organizations an opportunity to present information and recommendations relating to the coordination between elementary, secondary and postsecondary education, including, without limitation, the Nevada Youth Legislative Issues Forum created by NRS 385.515 . [and the Advisory Council on Parental Involvement established by NRS 385.610.]~~

~~2. The Council shall comply with the provisions of chapter 241 of NRS.~~

~~3. For each day or portion of a day during which the members of the Council attend a meeting of the Council or are otherwise engaged in the business of the Council:~~

~~(a) The members who are Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature~~

~~during the first 60 days of the preceding regular session plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207, payable from the Legislative Fund.~~

~~(b) The members who are appointed by the Majority Leader of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate and the Minority Leader of the Assembly who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable from the Legislative Fund.~~

~~(c) The members who are appointed by the Governor are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, payable as other claims against the State are paid.~~

~~4. The Office of the Governor shall provide:~~

~~(a) Administrative support;~~

~~(b) Equipment; and~~

~~(c) Office space,~~

~~as is necessary for the Council to carry out its duties.~~

~~5. The Board of Regents of the University of Nevada and the Department shall provide technical assistance to the Council upon the request of the Chairman.~~] *(Deleted by amendment.)*

Sec. 67. 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 ~~[;]~~ *, the defined goals and benchmarks and the measurable outcomes established by the State Board of Education pursuant to section 9 of this act;*

(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, recommend to the ~~[Commission on Educational Excellence created by NRS 385.3784]~~ *State Board of Education* programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 68. 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.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education ~~[,]~~ *and* 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. 69. NRS 385.017, 385.0175, 385.018, 385.019, 385.0225, 385.023, 385.0235, 385.024, 385.0245, 385.025, 385.0255, 385.0257, 385.026, 385.0265, 385.3781, 385.3783, 385.3784, 388.780, 388.785, 388.790,

389.500, 389.510, 391.002, 391.005, 391.011, 391.013, 391.015, 391.017, 391.027, 391.029, 391.500, 391.508 and 391.516 are hereby repealed.

Sec. 70. 1. There is hereby created a Commission to Oversee Educational Reform, consisting of 6 members as follows:

(a) Two members appointed by the Governor to terms which commence on July 1, 2009, and expire on June 30, 2011.

(b) Two members appointed by the Majority Leader of the Senate to terms which commence on July 1, 2009, and expire on June 30, 2011.

(c) Two members appointed by the Speaker of the Assembly to terms which commence on July 1, 2009, and expire on June 30, 2011.

2. At its first meeting, the members of the Commission to Oversee Educational Reform shall elect a Chair from among its members. The Commission shall meet at the call of the Chair or a majority of the Commission.

3. A vacancy on the Commission to Oversee Educational Reform must be filled in the same manner as the original appointment.

4. The Commission to Oversee Educational Reform shall:

(a) Monitor the State Board of Education and the Department of Education in carrying out the amendatory provisions of this act.

(b) Review the implementation of the amendatory provisions of this act.

(c) On or before July 1, 2010, submit to the Legislative Committee on Education a preliminary report concerning the progress of the changes and reformations of the State Board of Education, the Department of Education and the system of public education in this State generally, including an analysis of the effectiveness of the changes and reformations.

(d) On or before February 1, 2011, submit to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature a report concerning the changes and reformations of the State Board of Education, the Department of Education and the system of public education in this State generally, including an analysis of the effectiveness of the changes and reformations. The report may include any recommendations for legislation proposed by the Commission to Oversee Educational Reform.

5. The State Board of Education and the Department of Education shall work cooperatively with the Commission to Oversee Educational Reform.

6. The members of the Commission to Oversee Educational Reform shall serve without compensation.

7. The Legislative Counsel Bureau shall provide administrative support at the request of the Commission to Oversee Educational Reform.

Sec. 71. 1. The terms of all members of the State Board of Education who are incumbent on December 31, 2010, expire on that date.

2. On or before January 1, 2011:

(a) The Governor shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by

section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2013.

(b) The Majority Leader of the Senate shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2015.

(c) The Speaker of the Assembly shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2013.

(d) The Board of Regents of the University of Nevada may appoint one member who meets the qualifications set forth in paragraph (c) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2015.

3. The member who is elected who is a resident of:

(a) Congressional District 1, as described in NRS 304.100, serves an initial term of 2 years and serves a term of 4 years thereafter.

(b) Congressional District 2, as described in NRS 304.110, serves a term of 4 years.

(c) Congressional District 3, as described in NRS 304.120, serves a term of 4 years.

Sec. 72. 1. The terms of all members of the Commission on Educational Excellence who are incumbent on June 30, 2009, expire on that date.

2. The terms of all members of the Commission on Educational Technology who are incumbent on June 30, 2009, expire on that date.

3. The terms of all members of the Council to Establish Academic Standards for Public Schools who are incumbent on June 30, 2009, expire on that date.

4. The terms of all members of the Commission on Professional Standards in Education who are incumbent on June 30, 2009, expire on that date.

5. The terms of all members of the Statewide Council for the Coordination of the Regional Training Programs who are incumbent on June 30, 2009, expire on that date.

Sec. 73. 1. The term of the Superintendent of Public Instruction who was appointed pursuant to NRS 385.150 before the effective date of this act continues to serve for the remainder of that unexpired term. Upon expiration of the term or if a vacancy occurs before the expiration of that term, the Governor shall nominate and the Legislative Commission may confirm a State Superintendent for Education in accordance with NRS 385.150, as amended by section 11 of this act, for a term which expires on June 30, 2010.

2. Commencing on February 1, 2011, the Governor shall nominate, and the Senate may confirm in accordance with NRS 385.150, as amended by

section 11 of this act, a State Superintendent for Education for a term which commences on July 1, 2011.

Sec. 74. 1. The Legislative Counsel shall, in preparing the:

(a) 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, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or entity. 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.

(b) Supplements to the Nevada Administrative Code, appropriately change any reference to an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or entity.

2. Any references in a bill or resolution passed by the 75th Session of the Nevada Legislature to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity shall be deemed to refer to the officer, agency or other entity to which the responsibility is transferred.

Sec. 75. 1. Any policies adopted by the Commission on Educational Excellence pursuant to NRS 385.3781 to 385.379, inclusive, before July 1, 2009:

(a) Remain in effect and may be enforced as if adopted by the State Board of Education in accordance with the provisions of this act; and

(b) May be amended or repealed by the State Board of Education in accordance with the provisions of this act.

2. Any regulations or policies adopted by the Department of Education, in consultation with the Commission on Educational Technology, pursuant to NRS 388.780 to 388.805, inclusive, before July 1, 2009:

(a) Remain in effect and may be enforced as if adopted by the State Board of Education in accordance with the provisions of this act; and

(b) May be amended or repealed by the State Board of Education in accordance with the provisions of this act.

3. Any regulations or policies adopted by the Commission on Professional Standards in Education pursuant to chapter 391 of NRS before July 1, 2009:

(a) Remain in effect and may be enforced as if adopted by the State Board of Education in accordance with the provisions of this act; and

(b) May be amended or repealed by the State Board of Education in accordance with the provisions of this act.

4. Any policies adopted by the Statewide Council for the Coordination of the Regional Training Programs pursuant to NRS 391.500 to 391.556, inclusive, before July 1, 2009:

(a) Remain in effect and may be enforced as if adopted by the State Board of Education in accordance with the provisions of this act; and

(b) May be amended or repealed by the State Board of Education in accordance with the provisions of this act.

Sec. 76. On or before July 1, 2009, the State Board of Education shall appoint members to the:

1. Advisory committee authorized pursuant to NRS 385.3785, as amended by section 23 of this act. Persons appointed by the State Board may be persons who served on the Commission on Educational Excellence as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.

2. Advisory committee authorized pursuant to NRS 388.795, as amended by section 31 of this act. Persons appointed by the State Board may be persons who served on the Commission on Educational Technology as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.

3. Advisory committee authorized pursuant to NRS 389.530, as amended by section 38 of this act. Persons appointed by the State Board may be persons who served on the Council to Establish Academic Standards for Public Schools as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.

4. Advisory committee authorized pursuant to section 46 of this act. Persons appointed by the State Board may be persons who served on the Commission on Professional Standards in Education as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.

5. Advisory committee authorized pursuant to NRS 391.520, as amended by section 60 of this act. Persons appointed by the State Board may be persons who served on the Statewide Council for the Coordination of the Regional Training Programs as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.

Sec. 77. Any contract entered into by the Commission on Educational Excellence, Commission on Educational Technology, Council to Establish Academic Standards for Public Schools, Commission on Professional Standards in Education or Statewide Council for the Coordination of the Regional Training Programs before July 1, 2009, remains in effect and may be administered and enforced by the State Board of Education.

Sec. 78. 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 until October 1, 2011, 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. 79. 1. This section and sections 70, 72 and 76 of this act become effective on passage and approval for purposes of:

(a) Expiring terms pursuant to section 72 of this act; and

(b) Making appointments pursuant to sections 70 and 76 of this act,

➥ and on July 1, 2009, for all other purposes.

2. Sections 8 and 71 of this act become effective upon passage and approval for purposes of electing members from each of the congressional districts in the 2010 general election and expiring the terms of the incumbent members of the State Board of Education pursuant to section 71 of this act, and on January 1, 2011, for all other purposes.

3. Sections 1 to 7, inclusive, 9 to 49, inclusive, 51, 52, 53, 55 to 69, inclusive, 73, 74, 75, 77 and 78 of this act become effective on July 1, 2009.

4. Sections 50 and 54 of this act become effective on July 1, 2011.

5. Section 56 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

385.017 Definitions.

385.0175 Maps of districts: Duties of Director of Legislative Counsel Bureau.

385.018 Maps of districts: Duties of Secretary of State.

385.019 Attachment of omitted area to appropriate district.

385.0225 District 1.

385.023 District 2.

385.0235 District 3.

385.024 District 4.

385.0245 District 5.

385.025 District 6.

385.0255 District 7.

385.0257 District 8.

385.026 District 9.

385.0265 District 10.

385.3781 Definitions.

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.

388.780 Definitions.

388.785 "Commission" defined.

388.790 Commission on Educational Technology: Creation; membership; terms; removal and vacancy; quarterly meetings required; compensation.

389.500 "Council" defined.

389.510 Council to Establish Academic Standards: Creation; membership; terms; compensation.

391.002 Definitions.

391.005 "Commission" defined.

391.011 Creation; membership.

391.013 Limitation on terms of certain members.

391.015 Officers.

391.017 Meetings; quorum; travel expenses and subsistence allowances.

391.027 Approval or disapproval of Commission's regulations by State Board of Education.

391.029 Provision of personnel; location of offices.

391.500 Definitions.

391.508 "Statewide Council" defined.

391.516 Statewide Council for the Coordination of the Regional Training Programs: Creation; membership; terms; compensation; administrative support authorized.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

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

This would add back section 45.5 which allows a teacher, whether they belong to an association or not, to negotiate a contract salary for themselves which could amount to a nine-or twelve-month contract. This could help us in areas in which there is vital need. These areas are special education, math and science. Those are three areas that are critical to us. This is another avenue for us to entice people to help us.

I have not seen associations or groups out there helping us recruit teachers for these needed specialties. We have to look at alternatives. This is another alternative. There is another bill that we have that is going to be discussed that will address another alternative. We are looking for ways to bring teachers here for these specialties. If we add this back into this bill, I believe this gives us another avenue to fill these positions. If a person contracts with a school, they want to teach at and does so for a 1-, 2-or 3-year contract at a 9-or 12-month contract, this will be important to them. It will also apply to the charter schools. We have to look at alternatives. We cannot be ostriches and stick our heads in the stand and continue to do the same type of negotiations. They want and demand something different. It is our job to make certain we do that for them. This is just another way to try and attract teachers to these areas. I appreciate your support of this amendment.

Motion lost on a division of the house.

Bill ordered reprinted, engrossed and to third reading.

Senator Wiener moved that Senate Bill No. 330 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senate Bill No. 364.

Bill read second time.

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

Amendment No. 425.

"SUMMARY—Revises provisions relating to professional licensing boards and professional licenses. (BDR 54-220)"

"AN ACT relating to professions; authorizing various professional boards to employ or retain attorneys, investigate certain violations, refer certain violations for applicable enforcement action and impose additional administrative fines; revising provisions related to licensure of various professions; authorizing physician assistants to be supervised remotely under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes regulatory bodies, as defined in NRS 622.060, to employ or retain attorneys other than the Attorney General ~~.~~ *under certain circumstances.* Sections 2 and 15 of this bill revise other provisions to comport with this authorization.

Section 4 of this bill defines the term "board which regulates a health care profession." Section 5 of this bill provides additional authority to such boards which regulate health care professions, including the authority to: (1) investigate occurrences of unlawful activity; (2) refer occurrences of such unlawful activity to the Attorney General or a district attorney to prosecute and to obtain an injunction, as applicable; and (3) impose additional administrative fines upon persons engaging in such unlawful activity under certain circumstances. Section 7 of this bill revises other provisions to account for the new definition.

Sections 8, 12, 16 and 18 of this bill provide similar alternative paths for licensure in this State, under certain circumstances, for physicians, osteopathic physicians, psychologists and various social workers who are licensed in other jurisdictions. Section 17 of this bill revises other provisions to account for this alternative path for licensure for psychologists.

Section 9 of this bill authorizes the Board of Medical Examiners to approve an application for a license under certain circumstances if the applicant has applied for and is awaiting a decision regarding a J-1 visa waiver.

Sections 10 and 13 of this bill provide for limited and special licenses, respectively, for physicians and osteopathic physicians who have completed residency programs under certain circumstances.

Sections 11 and 14 of this bill authorize the supervision of a physician assistant by a physician or osteopathic physician, respectively, using telecommunication and remote file review.

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 a new section to read as follows:

A regulatory body may, as necessary for the discharge of its duties, and subject to the approval of the Attorney General, employ or retain attorneys other than the Attorney General and his deputies. Attorneys employed or retained pursuant to this section are subject to the performance standards and training established by the Attorney General.

Sec. 2. NRS 622A.070 is hereby amended to read as follows:

622A.070 "Prosecutor" means any of the following:

1. The Attorney General or a deputy attorney general who prosecutes a contested case pursuant to this chapter;

2. If the Attorney General and his deputies are disqualified to act in such a matter, an attorney appointed by the Attorney General to prosecute a contested case pursuant to this chapter; or

3. ~~[If the regulatory body is authorized to employ or retain attorneys other than the Attorney General and his deputies, an]~~ *An* attorney employed or retained by the regulatory body to prosecute a contested case pursuant to this chapter.

Sec. 3. Chapter 629 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. *"Board which regulates a health care profession" means 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.*

Sec. 5. *In addition to any other powers and duties provided by law, a board which regulates a health care profession may:*

1. Investigate any alleged occurrence of a person unlawfully engaging in an activity regulated by the chapter which created the board.

2. If an investigation undertaken pursuant to subsection 1 indicates that a person has unlawfully engaged in an activity regulated by the chapter which created the board, request the Attorney General, the district attorney of the county in which the alleged occurrence occurred or the district attorney of any other county in which that person maintains a place of business or resides to:

(a) Pursue any appropriate criminal prosecution; and

(b) Apply on behalf of the board to the district court for an injunction restraining the person from acting in violation of the chapter which created the board. Upon a proper showing, a temporary restraining order, a preliminary injunction or a permanent injunction may be granted. The board as plaintiff in the action is not required to prove any irreparable injury.

3. In addition to any other penalty, impose an administrative fine in an amount that is not less than $1,000 and not more than $50,000 for each occurrence if, after an investigation undertaken pursuant to subsection 1, the board finds that a person:

(a) Unlawfully engaged in an activity regulated by the chapter which created the board; and

(b) While unlawfully engaging in an activity as described in paragraph (a), falsely represented that he had a valid and applicable license, registration, permit or other authorization issued by the board which would authorize the activity.

Sec. 6. NRS 629.011 is hereby amended to read as follows:

629.011 As used in this chapter, unless the context otherwise requires, words and terms defined in NRS 629.021 and 629.031 *and section 4 of this act* have the meanings ascribed to them in those sections.

Sec. 7. NRS 629.097 is hereby amended to read as follows:

629.097 1. If the Governor must appoint to a board *which regulates a health care profession* 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. To the extent practicable, such an applicable professional association shall provide nominees who represent the geographic diversity of this State.

3. The Governor may appoint any qualified person to a board ~~[,]~~ *which regulates a health care profession*, without regard to whether the person is nominated pursuant to this section.

~~[4. 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.]~~

Sec. 8. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall issue a license to practice medicine to a person who:

(a) Has a current, unrestricted license to practice medicine issued pursuant to the laws of another state or territory of the United States or the District of Columbia;

(b) Has practiced medicine pursuant to the laws of another state or territory of the United States or the District of Columbia for not less than 5 years;

(c) Has not had his license to practice medicine revoked or suspended in this State, another state or territory of the United States or the District of Columbia;

(d) Has not been refused a license to practice medicine in this State, another state or territory of the United States or the District of Columbia;

(e) Is not involved in and does not have pending a disciplinary action concerning his license to practice medicine in this State, another state or territory of the United States or the District of Columbia ~~[;]~~ and has not had a reportable event to the National Practitioner Data Bank;

(f) Has not had any malpractice judgment in any amount or a malpractice settlement in excess of $100,000 against him in this State, another state or territory of the United States or the District of Columbia in the last 5 years;

(g) Pays the application and renewal fees set forth in NRS 630.268;

~~*[(g)]*~~ *(h) Submits the statement required by NRS 630.197; and*

~~*[(h)]*~~ *(i) Submits a complete set of 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. Notwithstanding any provision of this chapter to the contrary, a person who satisfies the requirements of subsection 1 is not required to comply with any other requirements set forth in this chapter to obtain a license pursuant to this section.

3. The provisions of this section do not limit a person from obtaining a license to practice medicine pursuant to any other provisions of law.

4. A license to practice medicine pursuant to this section 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. 9. 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 section 8 of this act* and 630.258 to 630.265, inclusive, a license may be issued to any person who:

(a) ~~[Is]~~ *Except as otherwise provided in subsection 3, 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 *former* 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 process and approve the application for a license pursuant to this section of a person who does not meet the requirements of paragraph (a) of subsection 2 if:

(a) The person has requested a J-1 visa waiver;

(b) Receipt of a J-1 visa waiver would cause the person to meet the requirements of paragraph (a) of subsection 2; and

(c) The person's request for a J-1 visa waiver has not been approved or denied.

➥ *A person whose application for a license has been processed and approved in accordance with this subsection shall not practice medicine until he receives a J-1 visa waiver.*

Sec. 10. 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.

(f) A limited license to a person regarding whom the Board has received:

(1) A certificate of completion of progressive postgraduate training from the residency program where the person received training;

(2) A report pursuant to NRS 630.167 which is satisfactory to the Board; and

(3) The statement required pursuant to NRS 630.197.

➥ *A limited license issued to a person pursuant to this paragraph expires after a period specified by the Board which is calculated to allow the person to complete all remaining requirements for licensure pursuant to NRS 630.160, including, without limitation, taking any examinations and receiving any certifications.*

2. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 11. NRS 630.271 is hereby amended to read as follows:

630.271 1. A physician assistant may perform such medical services as he is authorized to perform by his supervising physician.

2. The Board and supervising physician shall limit the authority of a physician assistant to prescribe controlled substances to those schedules of controlled substances that the supervising physician is authorized to prescribe pursuant to state and federal law.

3. A supervising physician may supervise a physician assistant through telecommunication and remotely reviewing information concerning a patient.

Sec. 12. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall issue a license to practice medicine to a person who:

(a) Has a license to practice osteopathic medicine issued pursuant to the laws of another state or territory of the United States or the District of Columbia;

(b) Has practiced osteopathic medicine pursuant to the laws of another state or territory of the United States or the District of Columbia for not less than 5 years;

(c) Has not had his license to practice osteopathic medicine revoked or suspended in this State, another state or territory of the United States or the District of Columbia;

(d) Has not been refused a license to practice osteopathic medicine in this State, another state or territory of the United States or the District of Columbia;

(e) Is not involved in and does not have pending a disciplinary action concerning his license to practice osteopathic medicine in this State, another state or territory of the United States or the District of Columbia;

(f) Pays the application and renewal fees set forth in NRS 633.501;

(g) Submits the statement required by NRS 633.307; and

(h) Submits a complete set of 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. Notwithstanding any provision of this chapter to the contrary, a person who satisfies the requirements of subsection 1 is not required to comply with any other requirements set forth in this chapter to obtain a license pursuant to this section.

3. The provisions of this section do not limit a person from obtaining a license to practice osteopathic medicine pursuant to any other provisions of law.

Sec. 13. NRS 633.401 is hereby amended to read as follows:

633.401 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine:

(a) To authorize a person who is licensed to practice osteopathic medicine in an adjoining state to come into Nevada to care for or assist in the treatment of his patients in association with an osteopathic physician in this State who has primary care of the patients.

(b) To a resident while he is enrolled in a postgraduate training program required pursuant to the provisions of paragraph (c) of subsection 4 of NRS 633.311.

(c) For a specified period and for specified purposes to a person who is licensed to practice osteopathic medicine in another jurisdiction.

(d) To a person regarding whom the Board has received:

(1) A certificate of completion of progressive postgraduate training from the residency program where the person received training;

(2) A report pursuant to NRS 633.309 which is satisfactory to the Board; and

(3) The statement required pursuant to NRS 633.307.

➥ *A special license issued to a person pursuant to this paragraph expires after a period specified by the Board which is calculated to allow the person to complete all remaining requirements for licensure pursuant to NRS 633.311, including, without limitation, taking any examinations and receiving any certifications.*

2. A special license issued under this section may be renewed by the Board upon application of the licensee.

3. Every person who applies for or renews a special license under this section shall pay respectively the special license fee or special license renewal fee specified in this chapter.

Sec. 14. NRS 633.469 is hereby amended to read as follows:

633.469 1. A supervising osteopathic physician shall provide supervision to his physician assistant continuously whenever the physician assistant is performing his professional duties.

2. Except as otherwise provided in subsection 3, a supervising osteopathic physician may provide supervision to his physician assistant in person or by *both using* telecommunication ~~[.]~~ *and remotely reviewing information concerning a patient.* When providing supervision by *using* telecommunication ~~[,]~~ *and remotely reviewing information concerning a patient,* a supervising osteopathic physician may be at a different site than the physician assistant.

3. A supervising osteopathic physician ~~[shall]~~ *:*

(a) Shall provide supervision to his physician assistant in person at all times during the first 30 days that the supervising osteopathic physician supervises the physician assistant.

(b) After the first 30 days ~~[,]~~ *that* the supervising osteopathic physician ~~[shall not]~~ ~~*[may]*~~ *supervises the physician assistant:*

(1) May, if the supervising osteopathic physician maintains the physician assistant in an area of rural Nevada with a population of 10,000 or less, regularly maintain the physician assistant at a different site than the supervising osteopathic physician.

(2) Shall not, if the supervising osteopathic physician maintains the physician assistant in an area other than as described in subparagraph (1), regularly maintain the physician assistant at a different site than the supervising osteopathic physician.

➥ The provisions of this subsection do not apply to a federally qualified health center.

4. Before beginning to supervise a physician assistant, a supervising osteopathic physician must communicate to the physician assistant:

(a) The scope of practice of the physician assistant;

(b) The access to the supervising osteopathic physician that the physician assistant will have; and

(c) Any processes for evaluation that the supervising osteopathic physician will use to evaluate the physician assistant.

5. A supervising osteopathic physician shall not delegate to his physician assistant, and his physician assistant shall not accept, a task that is beyond the physician assistant's capability to complete safely.

6. As used in this section, "federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

Sec. 15. NRS 640C.190 is hereby amended to read as follows:

640C.190 1. The Attorney General and his deputies are ~~[hereby designated as]~~ the attorneys for the Board ~~[.]~~ *unless the Board employs or retains attorneys other than the Attorney General and his deputies.*

2. The provisions of this section do not prevent the Board from employing or retaining other attorneys as it may deem necessary to carry out the provisions of this chapter.

Sec. 16. Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall issue a license to practice psychology to a person who:

(a) Has a license to practice psychology issued pursuant to the laws of another state or territory of the United States or the District of Columbia;

(b) Has practiced psychology pursuant to the laws of another state or territory of the United States or the District of Columbia for not less than 5 years;

(c) Has not had his license to practice psychology revoked or suspended in this State, another state or territory of the United States or the District of Columbia;

(d) Has not been refused a license to practice psychology in this State, another state or territory of the United States or the District of Columbia;

(e) Is not involved in and does not have pending a disciplinary action concerning his license to practice psychology in this State, another state or territory of the United States or the District of Columbia;

(f) Pays the application and renewal fees set forth in NRS 641.370;

(g) Submits the statement required by NRS 641.175; and

(h) Submits a complete set of 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. Notwithstanding any provision of this chapter to the contrary, a person who satisfies the requirements of subsection 1 is not required to comply with any other requirements set forth in this chapter to obtain a license pursuant to this section.

3. The provisions of this section do not limit a person from obtaining a license to practice psychology pursuant to any other provisions of law.

Sec. 17. NRS 641.027 is hereby amended to read as follows:

641.027 "Psychologist" means a person who ~~[:]~~ *is licensed pursuant to section 16 of this act or who:*

1. Is a graduate of an academic program approved by the Board and is qualified to practice psychology by reason of education, practical training and experience determined by the Board to be satisfactory; and

2. Has received from the Board a license to practice psychology.

Sec. 18. Chapter 641B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall issue a license to engage in social work as a social worker, an independent social worker or a clinical social worker to a person who:

(a) Has a license to engage in social work as a social worker, an independent social worker or a clinical social worker, respectively, issued pursuant to the laws of another state or territory of the United States or the District of Columbia;

(b) Has engaged in social work as a social worker, an independent social worker or a clinical social worker, respectively, pursuant to the laws of another state or territory of the United States or the District of Columbia for not less than 5 years;

(c) Has not had his license to engage in social work as a social worker, an independent social worker or a clinical social worker, respectively, revoked or suspended in this State, another state or territory of the United States or the District of Columbia;

(d) Has not been refused a license to engage in social work as a social worker, an independent social worker or a clinical social worker in this State, another state or territory of the United States or the District of Columbia;

(e) Is not involved in and does not have pending a disciplinary action concerning his license to engage in social work as a social worker, an independent social worker or a clinical social worker, respectively, in this State, another state or territory of the United States or the District of Columbia;

(f) Pays the application and renewal fees set forth in NRS 641B.300;

(g) Submits the statement required by NRS 641B.206; and

(h) Submits a complete set of 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. Notwithstanding any provision of this chapter to the contrary, a person who satisfies the requirements of subsection 1 is not required to comply with any other requirements set forth in this chapter to obtain a license pursuant to this section.

3. The provisions of this section do not limit a person from obtaining a license to engage in social work as a social worker, an independent social worker or a clinical social worker pursuant to any other provisions of law.

Sec. 19. 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 provides that an attorney retained by a regulatory board meet performance standards and participate in training established by the Attorney General. The amendment also outlines certain qualifications a physician practicing in another jurisdiction must meet in order to be considered for licensure without examination in Nevada. Additionally, the amendment specifies new requirements for the supervision of an osteopathic physician assistant.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 365.

Bill read second time.

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

Amendment No. 426.

"SUMMARY—Establishes provisions relating to family trust companies. (BDR 55-395)"

"AN ACT relating to ~~[family]~~ trust companies; providing for the licensure and regulation of family trust companies; revising provisions relating to trust companies; providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill sets forth a legislative finding concerning the need for a new chapter in NRS to regulate family trust companies. Section 1 of this bill provides for assessments to be paid by family trust companies. Sections 5-11 of this bill set forth definitions relating to family trust companies. Sections 12 and 37 of this bill provide that a family trust company is exempt from the provisions of chapter 669 of NRS, which regulate trust companies, under certain circumstances. Sections 13, 14, 21-23 and 26 of this bill provide for the licensure of family trust companies and the renewal of such licenses. Such licensure is optional. Sections 15-20, 24, 25 and 27-33 of this bill set forth the rights, duties and restrictions applicable to family trust companies and provide for the regulation of family trust companies by the Commissioner of Financial Institutions. Section 34 of this bill provides for administrative fines to be imposed on persons violating the provisions governing family trust companies.

~~[Section 35 of this bill adds provisions regarding confidential information of trust companies regulated under chapter 669 of NRS.]~~

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

Section 1. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company *or family trust company* that is supervised pursuant to chapter 669 of NRS ~~[.]~~ *or sections 3 to 34, inclusive, of this act.*

(e) Development corporation that is supervised pursuant to chapter 670 of NRS;

(f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;

(g) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;

(i) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(j) Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;

(k) Thrift company that is supervised pursuant to chapter 677 of NRS; and

(l) Credit union that is supervised pursuant to chapter 678 of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 2. Title 55 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 3 to 34, inclusive, of this act.

Sec. 3. *The Legislature finds as facts and determines that:*

1. There exists a need to modernize trust company laws in Nevada to make Nevada more competitive in attracting new business, for Nevada to remain competitive with a majority of other states that have modernized their laws and to ensure the safety and soundness of all trust companies licensed pursuant to the provisions of this chapter or chapter 669 of NRS.

2. Unlike the public trust companies required to be licensed pursuant to the provisions of chapter 669 of NRS, family trust companies do not engage or seek to engage in a trust company business with the public but rather serve solely the interests of members and related parties of a single family and the grantors and beneficiaries of trust instruments created for the purposes of estate planning for the family members. Consequently, there is no public interest to be protected or furthered and requiring the licensing of family trust companies will not promote the public advantage and convenience. There are, however, reasons that some family trust companies may wish to obtain state licensing and appropriate supervision under trust company law.

3. It is the purpose of this chapter to:

(a) Define those persons who are engaged in or who desire to provide fiduciary services to a single family and its related interests as a family trust company and who are not doing trust company business with the public or offering services to the general public; and

(b) Bring under public supervision only those family trust companies desiring the benefits of being licensed pursuant to the provisions of this chapter or chapter 669 of NRS.

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

Sec. 5. *"Affiliate" means a family affiliate of any family member of the family trust company who is qualified to serve and any person controlling, controlled by or under common control with the family trust company.*

Sec. 6. *"Confidential information" includes:*

1. The names of stockholders, members or other owners;

2. Ownership information;

3. Capital contributions;

4. Addresses;

5. Business affiliations;

6. Information obtained from the family trust company;

7. Findings of the Commissioner through any examination or investigation;

8. Any information required to be reported to or filed with the Commissioner;

9. Any information that qualifies as any person's "nonpublic personal information" under 15 U.S.C. § 6809 and the regulations adopted pursuant thereto;

10. Any information or agreement relating to any merger, consolidation or transfer;

11. Any information or agreement relating to any relationship with a contracting trustee; and

12. Any other nonpublic information that, in the judgment of the Commissioner, could be useful in connection with an act of bribery, extortion, identity theft or terrorism.

Sec. 7. *"Designated relative" means the common ancestor of the family, who may be either a living or deceased person. With regard to:*

1. A licensed family trust company or a family trust company applying to be licensed pursuant to this chapter, the designated relative is the person who is designated in the application for a license or in the annual renewal of a license.

2. A family trust company other than a family trust company described in subsection 1, the designated relative is any person designated by the family trust company in a letter to the Commissioner sent by certified mail, return receipt requested.

Sec. 8. *"Family affiliate" means a company or other entity with respect to which a family member possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of that company or entity, whether through the ownership of voting securities, by contract, power of direction or otherwise.*

Sec. 9. *1. "Family member" includes, without limitation, the designated relative and:*

(a) Any person within the tenth degree of lineal kinship of the designated relative;

(b) Any person within the ninth degree of collateral kinship to the designated relative;

(c) Any nonfamily member who is an individual beneficiary under a will or trust created by a family member specified in paragraph (a) or (b), including the spouse and issue of that person;

(d) The spouse and any former spouse of the designated relative or of any person qualifying as a family member pursuant to paragraph (a) or (b);

(e) A person who is a relative of a spouse or former spouse specified in paragraph (c) or (d) who is within the fifth degree of lineal kinship of the spouse or former spouse;

(f) A family affiliate and the officers, managers and directors of that family affiliate and their immediate families;

(g) An inter vivos or testamentary trust established by a family member either individually or jointly with a spouse or third party and any trustee, advisor or other person assisting with administration of that trust;

(h) An inter vivos or testamentary trust established by a person who is not a family member if noncharitable beneficiaries of that trust include family members;

(i) The estate of a family member;

(j) The estate of a nonfamily member if the noncharitable beneficiaries of that estate include family members; and

(k) A charitable foundation, a charitable trust or charitable entity of which a family member is an organizer, incorporator, officer, member of the governing board, trustee, major donor or noncharitable beneficiary and the officers, directors, individual trustees and managers of that foundation, trust or entity and their immediate families.

2. For the purposes of this section:

(a) A family member is not a member of the public;

(b) A legally adopted person must be treated as a natural child of the adoptive parents;

(c) A stepchild must be treated as a natural child of the family member who is or was the stepparent of that child;

(d) Children of a spouse of a family member must be treated as a natural child of that family member; and

(e) Degrees are calculated by adding the number of steps from the designated relative through each person to the family member either directly, in the case of lineal kinship, or through the common ancestor, in the case of collateral kinship.

3. As used in this section:

(a) "Collateral kinship" means a relationship that is not lineal, but stems from a common ancestor.

(b) "Lineal kinship" means a family member who is in the direct line of ascent or descent from the designated relative.

Sec. 10. *"Family trust company" means a corporation or limited-liability company that:*

1. Acts or proposes to act as a fiduciary;

2. Is organized or qualified to do business in this State to serve family members; and

3. Does not:

(a) Transact trust company business with;

(b) Propose to act as a fiduciary for; or

(c) Solicit trust company business from,

➥ *a person who is not a family member.*

Sec. 11. *"Licensed family trust company" means a trust company licensed pursuant to this chapter.*

Sec. 12. *A family trust company is not required to be licensed as a trust company pursuant to chapter 669 of NRS. Unless a family trust company*

applies for licensure pursuant to chapter 669 of NRS, the family trust company is not:

1. Subject to supervision by the Commissioner pursuant to this chapter or chapter 669 of NRS; or

2. Except as otherwise provided in this chapter, subject to the provisions of chapter 669 of NRS applicable to a trust company that offers trust company services to:

(a) Persons who are not family members; or

(b) The public at large.

Sec. 13. *A family trust company:*

1. Is not required to be licensed pursuant to this chapter or chapter 669 of NRS.

2. May apply for a license as:

(a) A trust company pursuant to chapter 669 of NRS; or

(b) A licensed family trust company pursuant to this chapter.

Sec. 14. *A trust company licensed pursuant to the provisions of chapter 669 of NRS may exchange its license granted pursuant to that chapter for a license under this chapter, thereby becoming a licensed family trust company, upon providing the Commissioner with satisfactory evidence that at or before the effective date of its license under this chapter, the trust company will:*

1. Satisfy the definition of a family trust company; and

2. Comply with the requirements of section 16 of this act.

Sec. 15. *Except as otherwise provided in section 17 of this act, a family trust company licensed pursuant to this chapter has all the rights, privileges and exemptions from licensing and regulation requirements made applicable by any law of this State to trust companies licensed pursuant to chapter 669 of NRS, including, without limitation, the requirements for registration, licensing and supervision set forth in chapter 90 of NRS.*

Sec. 16. *A licensed family trust company shall maintain:*

1. At least one officer of the licensed family trust company who is a resident of this State;

2. A physical office in this State where original or true copies of all material business records and accounts of the licensed family trust company may be accessed and readily available for examination by the Division of Financial Institutions;

3. A registered agent, with an office at the street address of the registered agent, in this State;

4. All applicable state and local business licenses and permits; and

5. A bank account with a state chartered or national bank having a principal or branch offices in this State.

Sec. 17. *1. Except as otherwise provided in subsections 2 and 3, or pursuant to the provisions of NRS 669.095, a family trust company formed and doing business under the laws of this State or any other state shall not:*

(a) Advertise its services to the public; or

(b) Use the word "trust" or any direct derivative of that word as a part of its name.

2. The provisions of subsection 1 do not apply to a family trust company which is licensed pursuant to chapter 669 of NRS.

3. The provisions of paragraph (b) of subsection 1 do not apply to a licensed family trust company.

Sec. 18. *A licensed family trust company must not be organized or operated with a stockholders' equity of less than $300,000. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the licensed family trust company is authorized to commence business as a licensed family trust company.*

Sec. 19. *An applicant for a license to conduct business as a licensed family trust company under this chapter must be organized as a corporation or limited-liability company under the laws of this State or authorized to do business in this State as a foreign corporation or foreign limited-liability company.*

Sec. 20. *1. If a licensed family trust company is organized under the laws of this State as a corporation or limited-liability company, the articles of incorporation, certificate of incorporation or articles of organization must contain:*

(a) The name adopted by the licensed family trust company, which must be such as to distinguish it from any other trust company formed or incorporated in this State, or engaged in the business of a trust company or licensed family trust company in this State; and

(b) The purpose for which it is formed.

2. The provisions of subsection 1 do not apply to a licensed family trust company which is licensed or chartered to do business as a trust company under the laws of another state, but the licensed family trust company must use a name that distinguishes it from any other trust company organized as or conducting the business of:

(a) A trust company; or

(b) A licensed family trust company,

➥ *in this State.*

Sec. 21. *1. An applicant for a license as a family trust company must file an application with the Commissioner on forms prescribed by the Commissioner. The application must contain or be accompanied by such information as the Commissioner requires.*

2. A nonrefundable fee of not more than $3,000 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary. In addition, a fee of not less than $300 or more than $1,000, prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the application.

3. A licensed family trust company may maintain offices in this and other states. For every branch location of a family trust company organized under

the laws of this State, and every branch location in this State of a foreign family trust company electing to be licensed as a family trust company in this State, a request for approval and licensing must be filed with the Commissioner on such forms as he prescribes. A nonrefundable fee of not more than $500 must accompany each request. In addition, a fee of not more than $200, prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request.

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

5. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 12 months of the Commissioner's first request therefor or within such later period as the Commissioner determines. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner must not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

Sec. 22. *1. Within 60 days after the application for a license as a family trust company is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:*

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a licensed family trust company. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Have not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(3) Have not made a false statement of material fact on the application.

(4) Have not had a license that was issued pursuant to the provisions of this chapter or chapter 669 of NRS suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Have not had a license as a trust company which was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application.

(6) Have not been found guilty of any violation of any of the provisions of this chapter or any regulation adopted pursuant thereto that in the judgment of the Commissioner would render the person unfit for the proposed position.

(b) That the financial status of the directors and officers of the corporation, or the managers or members acting in a managerial capacity of

the limited-liability company, as applicable, is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

2. Notice of the entry of an order refusing a license to a family trust company must be given in writing, served personally or sent by certified mail to the company affected. The company, upon application, is entitled to a hearing before a hearing officer appointed by the Director of the Department of Business and Industry, but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.

3. If the hearing officer affirms the order of the Commissioner refusing the license, the applicant may file a petition for judicial review pursuant to NRS 233B.130.

Sec. 23. *1. On or before April 1 of each year, each licensed family trust company must pay to the Division of Financial Institutions a license fee of $1,500. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.*

2. A licensed family trust company which identifies a new designated relative when the licensed family trust company renews its license shall pay an additional annual license fee for renewal in such amount as the Commissioner shall determine.

Sec. 24. *1. A family trust company may, but only for family members:*

(a) Act as a fiduciary, including as a personal representative, within and outside this State.

(b) Act within and outside this State as advisory agent, agent, assignee, assignee for the benefit of creditors, attorney-in-fact, authenticating agent, bailee, bond or indenture trustee, conservator, conversion agent, curator, custodian, escrow agent, exchange agent, fiscal or paying agent, financial advisor, investment advisor, investment manager, managing agent, purchase agent, receiver, registrar, safekeeping agent, subscription agent, transfer agent except for public companies, warrant agent, or in similar capacities generally performed by corporate trustees, and in so acting to possess, purchase, sell, invest, reinvest, safekeep or otherwise manage or administer real or personal property of other persons.

(c) Exercise the powers of a business corporation or a limited-liability company organized or qualified as a foreign corporation or a limited-liability company under the laws of this State and any incidental powers that are reasonably necessary to enable it to fully exercise, in accordance with commonly accepted customs and usages, a power conferred in this chapter.

(d) Do and perform all acts necessary or incidental to exercise the powers enumerated in this section or authorized by this chapter and any other applicable laws of this State.

2. A family trust company shall not engage in any:

(a) Banking with the public; or

(b) Trust company business with the public unless licensed pursuant to chapter 669 of NRS.

Sec. 25. *1. Except as otherwise provided in subsection 2, the assets forming the minimum capital of a licensed family trust company pursuant to section 18 of this act must:*

(a) ~~[Be federal, state or municipal governmental]~~ Consist of:

(1) Cash;

(2) Governmental obligations or insured deposits that mature within 3 years after acquisition ~~[.]~~ ;

(3) Readily marketable securities or other liquid, secure assets, bonds, sureties or insurance; or

(4) Any combination thereof.

(b) Have an aggregate market value that equals or exceeds ~~[60]~~ 100 percent of the company's ~~[current]~~ required stockholders' equity . ~~[or 60 percent of the company's initial stockholders' equity, whichever is greater.]~~

2. A licensed family trust company may purchase or rent real or personal property for use in the conduct of the business and other activities of the company.

3. Notwithstanding any other provisions of law to the contrary, a licensed family trust company may invest its funds for its own account, other than those required or permitted to be maintained by subsection 1 or 2, in any type or character of equity securities, debt securities or other asset provided the investment complies with the prudent investor standards set forth in NRS 164.700 to 164.775, inclusive.

4. Notwithstanding the provisions of any other law to the contrary, a family trust company is authorized while acting as a fiduciary to purchase for the fiduciary estate, directly from underwriters or distributors or in the secondary market:

(a) Bonds or other securities underwritten or distributed by the family trust company or an affiliate thereof or by a syndicate which includes the family trust company, provided that the family trust company discloses in any written communication or account statement reflecting the purchase of those bonds or securities the nature of the interest of the family trust company in the underwriting or distribution of those bonds and securities and whether the family trust company received any fee in connection with the purchase; and

(b) Securities of any investment company as defined under the Investment Company Act of 1940 for which the family trust company acts as advisor, custodian, distributor, manager, registrar, shareholder servicing agent,

sponsor or transfer agent, or provided the family trust company discloses in any written communication or account statement reflecting the purchase of the securities the nature of the relationship and whether the family trust company received any fee for providing those services.

5. The authority granted in subsection 4 may be exercised only if:

(a) The investment is not expressly prohibited by the instrument, judgment, decree or order establishing the fiduciary relationship;

(b) The family trust company discloses in writing to the person or persons to whom it sends account statements its intent to exercise the authority granted in subsection 4 before the first exercise of that authority; and

(c) The family trust company procures in writing the consent of its cofiduciaries with discretionary investment powers, if any, to the investment.

6. A family trust company may:

(a) Invest in the securities of an investment company as defined under the federal Investment Company Act of 1940 or investment trust, to which the family trust company or its affiliate provides services in a capacity other than as trustee. The investment is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor standards set forth in NRS 164.700 to 164.775, inclusive.

(b) Be compensated by an investment company or investment trust described in paragraph (a) for providing services in a capacity other than as trustee if the family trust company discloses at least annually to each person to whom it sends account statements the rate and method by which the compensation was determined.

7. Nothing in subsections 4, 5 and 6 shall affect the degree of prudence which is required of fiduciaries under the laws of this State. Any bonds or securities purchased under authority of this section are not presumed to be affected by a conflict between the fiduciary's personal and fiduciary interest if the purchase of the bonds or securities:

(a) Is at a fair price;

(b) Is in accordance with:

(1) The interest of the beneficiaries; and

(2) The purposes of the trusts; and

(c) Complies with:

(1) The prudent investor standards set forth in NRS 164.700 to 164.775, inclusive; and

(2) The terms of the instrument, judgment, decree or order establishing the fiduciary relationship.

8. Notwithstanding the provisions of subsections 4 to 7, inclusive, a family trust company which is authorized to exercise trust powers in this State and which is acting as a fiduciary shall not purchase for the fiduciary estate any fixed income or equity security issued by the family trust company or an affiliate thereof unless:

(a) The family trust company is expressly authorized to do so by:

(1) The terms of the instrument creating the trust;

(2) A court order;

(3) The written consent of the grantor of the trust; or

(4) The written consent of every adult beneficiary of the trust who, at the time notice is provided pursuant to paragraph (b) of subsection 5, receives or is entitled to receive income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated; or

(b) The purchase of the security:

(1) Is at a fair price; and

(2) Complies with:

(I) The prudent investor standards set forth in NRS 164.700 to 164.775, inclusive; and

(II) The terms of the instrument, judgment, decree or order establishing the fiduciary relationship.

Sec. 26. *Whenever a licensed family trust company desires to discontinue its business as a family trust company, it shall furnish to the Commissioner satisfactory evidence of its release and discharge from all the obligations and trusts which it has assumed or which have been imposed by law. Thereafter, the Commissioner shall enter an order cancelling the license of the family trust company.*

Sec. 27. *1. The directors or managers of a licensed family trust company shall obtain fidelity bonds in such amounts as they shall determine on any active officers, managers, members acting in a managerial capacity and employees, whether or not they receive a salary or other compensation from the licensed family trust company, to indemnify the licensed family trust company against loss because of any dishonest, fraudulent or criminal act or omission by any of the persons bonded, acting alone or in combination with any other person. The bonds may be in any form and may be paid for by the licensed family trust company.*

2. A licensed family trust company may also procure property and casualty insurance of a nature and with such coverage amounts as the licensed family trust company deems advisable.

Sec. 28. *1. The Commissioner may examine the books and records of a licensed family trust company. For each examination of the books and records of a licensed family trust company as authorized under this chapter, the Commissioner shall charge and collect from the licensed family trust company a fee for conducting the examination and in preparing, typing and copying the report of the examination at the rate established pursuant to NRS 658.101.*

2. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 29. *1. The Commissioner may adopt such regulations as may be necessary to carry out the purposes and provisions of this chapter.*

2. The Commissioner may issue rules, orders, approvals, declaratory rulings or interpretations which determine, in individual circumstances or circumstances of more general applicability, whether an existing or

proposed family trust company meets, or family trust companies within such circumstances of more general applicability would meet, the definition of a family trust company. Any person applying for such a determination shall pay an application fee to the Division of Financial Institutions upon submittal of that application for a determination in such amount as the Commissioner shall prescribe.

Sec. 30. *1. The violation of any of the provisions of this chapter by the officers or directors, or the managers or members acting in a managerial capacity, of any licensed family trust company is sufficient cause for the Commissioner to revoke the license of the family trust company.*

2. If a licensed family trust company or any person authorized to act on behalf of the family trust company refuses to allow the Commissioner or his deputies to inspect all books, records, papers and effects of the business of the family trust company, the Commissioner may revoke the license of the licensed family trust company.

Sec. 31. *1. If a licensed family trust company fails to submit within the prescribed period any report required pursuant to this chapter or any regulation adopted pursuant thereto, the Commissioner may impose and collect a fee of not more than $25 for each day the report is overdue.*

2. The Commissioner shall adopt regulations establishing the amount of the fee that may be imposed pursuant to this section.

Sec. 32. *Each officer, director, manager, member, employee or agent of a licensed family trust company who, following written notice from the Commissioner sent by certified mail, knowingly or willfully:*

1. Neglects to perform any duty required by this chapter or other applicable law; or

2. Fails to conform to any material lawful requirement made by the Commissioner,

↳ is subject to removal upon order of the Commissioner.

Sec. 33. *1. ~~[Unless, in the judgment of the Commissioner, the ends of justice and the public advantage will be served by the publication of the information, all confidential information received in connection with any petition, application or other matter concerning a family trust company or otherwise submitted to the Division of Financial Institutions or the Commissioner by or on behalf of a family trust company:~~*

~~(a) Shall be deemed to be confidential; and~~

~~(b) Is not:~~

~~(1) Subject to subpoena in a civil action; or~~

~~(2) Made public.]~~ Except as otherwise provided in this section, any application and personal or financial records submitted by a person pursuant to the provisions of this chapter, any personal or financial records or other documents obtained by the Division of Financial Institutions pursuant to an examination or audit conducted by the Division pursuant to this chapter and any other private information relating to a family trust company are confidential and may be disclosed only to:

(a) The Division, any authorized employee of the Division and a state or federal agency investigating activities regulated pursuant to this chapter; and

(b) Any other person if the Commissioner, in his discretion, determines that the interests of the public in disclosing the information outweigh the interests of the person about whom the information pertains in not disclosing the information.

2. The Commissioner shall give to the family trust company to which the information relates 10-days prior written notice of intent to disclose confidential information directly or indirectly to ~~[the public.]~~ a person pursuant to paragraph (b) of subsection 1. Any family trust company which receives such a notice may object to the disclosure of the confidential information and will be afforded the right to a hearing in accordance with the provisions of chapter 233B of NRS. If a family trust company requests a hearing, the Commissioner may not reveal confidential information prior to the conclusion of the hearing and a ruling. Prior to dissemination of any confidential information, the Commissioner shall require a written agreement not to reveal the confidential information by the party receiving the confidential information. In no event shall the Commissioner disclose confidential information to the general public, any competitor or any potential competitor of a family trust company.

3. Nothing in this chapter is intended to preclude a law enforcement officer from gaining access to otherwise confidential records by subpoena, court order, search warrant or other lawful means. Notwithstanding any other provision of this chapter, the Commissioner shall have the ability to share information with other out of state or federal regulators with whom the Department of Business and Industry has an agreement regarding the sharing of information. Nothing in this chapter is intended to preclude any agency of this State from gaining access to otherwise confidential records in accordance with any applicable law.

Sec. 34. *In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $10,000 upon a person who:*

1. Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

2. Violates any provision of this chapter or any regulation adopted pursuant thereto.

Sec. 35. ~~[Chapter 669 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Unless, in the judgment of the Commissioner, the ends of justice and the public advantage will be served by the disclosure of the information, the Commissioner may, at his discretion on request or otherwise, determine that confidential information received in connection with any petition or application of or concerning a trust company, other than a family trust company, should not be publicly available, in which case that information:*~~

~~*(a) Shall be deemed to be confidential; and*~~

~~*(b) Is not:*~~

~~*(1) Subject to subpoena in a civil action; or*~~

~~*(2) Made public.*~~

~~*2. As used in this section, "confidential information" has the meaning ascribed to it in section 6 of this act.]*~~ *(Deleted by amendment.)*

Sec. 36. NRS 669.020 is hereby amended to read as follows:

669.020 As used in this chapter ~~[,]~~ *and sections 3 to 34, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 669.029 to 669.070, inclusive, have the meanings ascribed to them in those sections.

Sec. 37. NRS 669.080 is hereby amended to read as follows:

669.080 1. This chapter does not apply to a person who:

(a) Does business under the laws of this State, the United States or another state relating to banks, savings banks, savings and loan associations or thrift companies, but if the business conducted in this State is not subject to supervision by a regulatory authority of another jurisdiction, the person must be licensed pursuant to this chapter;

(b) Is appointed as a fiduciary pursuant to NRS 662.245;

(c) Is acting in the performance of his duties as an attorney at law;

(d) Acts as a trustee under a deed of trust;

(e) Acts as a registered agent for a domestic or foreign corporation, limited-liability company, limited partnership or limited-liability partnership;

(f) Acts as a trustee of a trust holding real property for the primary purpose of facilitating any transaction with respect to real estate if he is not regularly engaged in the business of acting as a trustee for such trusts;

(g) Engages in the business of a collection agency pursuant to chapter 649 of NRS;

(h) Engages in the business of an escrow agency, escrow agent or escrow officer pursuant to the provisions of chapter 645A or 692A of NRS;

(i) Acts as a trustee of a trust created for charitable or nonprofit purposes if he is not regularly engaged in the business of acting as trustee for such trusts;

(j) Receives money or other property as a real estate broker licensed under chapter 645 of NRS on behalf of a principal;

(k) Engages in transactions as a broker-dealer or sales representative pursuant to chapter 90 of NRS;

(l) Acts as a fiduciary under a court trust;

(m) Does business as an insurer authorized to issue policies of life insurance and annuities or endowment contracts in this State and is subject to regulation and control of the Commissioner of Insurance; ~~[or]~~

(n) Acts as a fiduciary if:

(1) The fiduciary relationship is not one of his principal occupations; or

(2) He serves as a fiduciary for a relative by blood or marriage ~~[.]~~ *; or*

(o) Except as otherwise provided in sections 3 to 34, inclusive, of this act, is a family trust company, as defined in section 10 of this act.

2. A bank, savings bank, savings and loan association or thrift company claiming an exemption from this chapter pursuant to paragraph (a) of subsection 1 must notify the Commissioner of Financial Institutions of its intention to engage in the business of a trust company in this State and present proof satisfactory to the Commissioner of Financial Institutions that its fiduciary activities in this State will be subject to regulation by another jurisdiction.

Senator Carlton moved the adoption of the amendment.

Conflict of interest declared by Senator Care.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment makes technical changes to the minimum required assets to form a family trust company. The amendment also revises provisions related to the confidentiality of information provided to the Division of Financial Institutions by a family trust company.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 388.

Bill read second time.

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

Amendment No. 291.

"SUMMARY—Revises provisions relating to insurance. (BDR 57-1131)"

"AN ACT relating to insurance; revising provisions relating to the Division of Insurance of the Department of Business and Industry, insurers, contracts or policies of insurance, viatical settlements, health insurance and employee leasing companies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill eliminates certain restrictions on out-of-state insurers. (NRS 680A.300)

Sections 7-9 of this bill require certain insurers to comply with newly enacted federal acts.

Section 10 of this bill authorizes insurers to include certain statements in policies of insurance.

Sections 12-58 and 72-77 of this bill revise provisions relating to viatical settlements.

Sections 58.5 and 64.5 of this bill revise provisions relating to compensation of producers for the sale of certain health benefit plans.

Sections 61-64 of this bill make mandatory the provision of coverage for certain conditions by group health insurance for small employers.

Sections 59, 65 and 70 of this bill revise provisions relating to reviews and examinations by the Commissioner of Insurance.

Section 78 of this bill revises provisions relating to employee leasing companies.

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

Section 1. NRS 679B.410 is hereby amended to read as follows:

679B.410 The Commissioner shall:

1. Determine the relationship of premiums and related income of insurers to costs and expenses of insurers, provide this information to the Legislature and make this information available to the general public.

2. Respond to requests by governmental agencies of this state and by the Legislature for special studies and analysis of information collected pursuant to NRS 679B.400 to 679B.460, inclusive.

3. Report to each regular session of the Legislature concerning his duties and findings pursuant to this section no later than the first Monday in February . ~~[1.]~~

Sec. 2. NRS 680A.265 is hereby amended to read as follows:

680A.265 1. Except as otherwise provided in subsection 5, every:

(a) Domestic insurer;

(b) Fraternal benefit society authorized to do business in this State pursuant to chapter 695A of NRS; and

(c) Corporation subject to the provisions of chapter 695B of NRS,

➥ shall file with the Commissioner, on or before June 1 of each year, a financial statement as of December 31 of the preceding calendar year that is certified by a certified public accountant who is not an employee of the insurer. The Commissioner may request a financial statement from a foreign or alien insurer.

2. If a certified public accountant finds any violation of the laws of this State during any audit he conducts pursuant to subsection 1, he shall, if the Commissioner has adopted regulations pursuant to subsection 6 pertaining to the reporting of a violation found during an audit, report the violation in accordance with those regulations.

3. An insurer who does not file a report pursuant to subsection 1 on or before June 1 of each year is subject to the penalty imposed pursuant to NRS 680A.280.

4. A statement filed with the Commissioner must not be a consolidated report with any other subsidiary, affiliate or parent company.

5. The provisions of this section do not apply to a domestic insurer who:

(a) Is not licensed or authorized to do business in any state other than Nevada; ~~[or]~~ and

(b) Is exempted from the requirements of this section by order of the Commissioner for good cause shown.

6. The Commissioner may adopt reasonable regulations relating to annual audited financial reports to administer the provisions of this section.

Sec. 3. NRS 680A.300 is hereby amended to read as follows:

680A.300 1. Except as provided in NRS 680A.310, no authorized insurer may make, write, place, renew or cause to be made, placed or renewed, any policy or duplicate policy , endorsement or contract of insurance of any kind upon persons, property or risks resident, located or to be performed in this State, except through its duly appointed and licensed agents , ~~[resident in this State,]~~ any one of whom shall countersign the policy ~~[.]~~ , endorsement or contract.

2. Where two or more insurers jointly issue a single policy, the policy may be countersigned, on behalf of all insurers appearing thereon, by a duly appointed and licensed agent ~~[resident in this State]~~ of any one insurer.

3. In any case where it is necessary to execute an emergency bond and a commissioned agent authorized to execute the bond is not present, a manager or other employee of the insurer having authority under a power of attorney may execute the bond in order to produce a valid contract between the insurer and the obligee. The bond must subsequently be countersigned by a ~~[resident]~~ commissioned agent ~~[,]~~ who is authorized to execute the bond. The commissioned agent who executes the bond shall make and retain an adequate office record of the transaction.

4. ~~[Nothing contained in this section prevents exercise of the free and unlimited right to negotiate contracts by licensed nonresident agents or brokers outside this State, if the policies, endorsements or evidence of those contracts covering properties or insurable interests in this State are countersigned by a registered agent of this State. Every such policy or contract must be countersigned by a registered agent.~~

~~5. On business produced by a licensed nonresident agent or broker, which is countersigned by a resident commissioned agent of this State, there must be a division of the usual commission between the licensed nonresident producing agent or broker and the resident countersigning commissioned agent which must produce for the latter a commission of at least 5 percent of the premium. No commission or fee is required as to policies with an annual premium of $250 or less. The insurer issuing any policy or bond is responsible for payment to the countersigning agent of the fee or commission for the countersignature. Where the licensed nonresident agent or broker or the insurer assuming the risk desires the resident commissioned agent to render additional services during the life of a policy, the compensation to the countersigning commissioned registered agent is a matter of contract between the parties in interest.~~

~~6.]~~ An insurer may use an endorsement to the policy for the sole purpose of countersigning the policy, as required in this section, only if:

(a) The endorsement is attached to the policy to which it applies; and

(b) The policy insures persons or property in this State and one or more other states.

Sec. 3.3. NRS 683A.261 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner

receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

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

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

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

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

Sec. 3.5. NRS 685A.070 is hereby amended to read as follows:

685A.070 1. A broker shall not knowingly place surplus lines insurance with an insurer which is unsound financially or ineligible pursuant to this section.

2. Except as otherwise provided in this section, an insurer is not eligible to accept surplus lines risks pursuant to this chapter unless it has surplus as to policyholders in an amount of not less than $15,000,000 and, if an alien insurer, unless it has and maintains in a bank or trust company which is a member of the United States Federal Reserve System a trust fund established pursuant to terms that are reasonably adequate to protect all of its policyholders in the United States. Such a trust fund must not have an

expiration date which is at any time less than 5 years in the future, on a continuing basis. In the case of:

(a) A single alien insurer, such a trust fund must not be less than the greater of $5,400,000 or 30 percent of the gross liabilities of the alien insurer for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance, not to exceed $60,000,000, to be determined annually on the basis of accounting practices and procedures that are substantially equivalent to the accounting practices and procedures applicable in this State as of December 31 of the year immediately preceding the date of the determination where:

(1) The liabilities are maintained in an irrevocable trust account in a qualified financial institution in the United States, on behalf of policyholders in the United States, consisting of cash, securities, letters of credit or any other investments of substantially the same character and quality as investments that are eligible investments pursuant to chapter 682A of NRS for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this State. The trust fund, which must be included in any calculation of capital and surplus or its equivalent, must comply with the requirements set forth in the Standard Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners;

(2) The alien insurer may request approval by the Commissioner to use the trust fund to pay any valid claim against a surplus line if the balance of the trust fund is not, during any period, less than $5,400,000 or 30 percent of the alien insurer's current gross liabilities for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance; and

(3) In calculating the amount of the trust fund required by this subsection, credit must be given for any deposits for any surplus lines that are separately required and maintained within a state or territory of the United States, not to exceed the amount of the alien insurer's loss and loss adjustment reserves maintained in that state or territory.

(b) A group of insurers which includes individual unincorporated insurers, such a trust fund must not be less than $100,000,000.

(c) A group of incorporated insurers under common administration, such a trust fund must not be less than $100,000,000. Each insurer within the group must individually maintain capital and surplus of not less than $25,000,000. The group of incorporated insurers must:

(1) Operate under the supervision of the Department of Trade and Industry of the United Kingdom;

(2) Possess aggregate policyholders surplus of $10,000,000,000, which must consist of money in trust in an amount not less than the assuming insurers' liabilities attributable to insurance written in the United States; and

(3) Maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

(d) An insurance exchange created by the laws of a state, the insurance exchange shall have and maintain a trust fund in an amount of not less than $75,000,000 or have a surplus as to policyholders in an amount of not less than $75,000,000. If an insurance exchange maintains money for the protection of all policyholders, each syndicate shall maintain minimum capital and surplus of not less than $15,000,000 and must qualify separately to be eligible for the acceptance of surplus lines risks pursuant to this chapter. ➥ The Commissioner may require larger trust funds or surplus as to policyholders than those set forth in this section if, in his judgment, the volume of business being transacted or proposed to be transacted warrants larger amounts.

3. An insurer is not eligible to write surplus lines of insurance unless it has established a reputation for financial integrity and satisfactory practices in underwriting and handling claims. In addition, a foreign insurer must be authorized in the state of its domicile to write the kinds of insurance which it intends to write in Nevada.

4. The Commissioner may from time to time compile or approve a list of all surplus lines insurers deemed by him to be eligible currently, and may ~~[mail]~~ *post* a copy of the list ~~[to each broker at his office last of record with the Commissioner.]~~ *on the Internet website maintained by the Division.* To be placed on the list, a surplus lines insurer must file an application with the Commissioner. The application must be accompanied by a nonrefundable fee of $2,450. This subsection does not require the Commissioner to determine the actual financial condition or claims practices of any unauthorized insurer. The status of eligibility, if granted by the Commissioner, indicates only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers so listed all surplus lines business placed by him.

Sec. 4. NRS 685B.120 is hereby amended to read as follows:

685B.120 1. ~~[Any]~~ Except as otherwise provided in subsection 2, a person who provides coverage in this State for the cost of:

(a) Medical care;
(b) Surgery;
(c) Chiropractic;
(d) Physical therapy;
(e) Speech pathology;
(f) Audiology;
(g) Professional care of mental health;
(h) Dental care;
(i) Hospital care;
(j) Ophthalmic care; or

(k) Ambulance services,

➥ whether the coverage provides for direct payment, reimbursement or any other method of payment, is subject to regulation by the Division and to the provisions of this Code . ~~[unless he]~~

2. A person who provides coverage pursuant to subsection 1 is not subject to regulation by the Division and to the provisions of this Code if:

(a) He shows that while providing such coverage he is subject to regulation by the Federal Government ~~[.~~

~~2.]~~ pursuant to the provisions of NRS 685B.130; and

(b) Regulation by the Division and the provisions of this Code conflict with the provisions of 29 U.S.C. § 1144(b)(6)(A).

3. A nonprofit corporation that provides prepaid ambulance services is not subject to regulation by the Division or to the provisions of this Code if the corporation presents evidence satisfactory to the Commissioner that the corporation is subject to regulation by a political subdivision of this State pursuant to an exclusive franchise which limits the number of times any such prepaid services may be used to a defined number that are medically necessary.

Sec. 4.5. *NRS 686C.210 is hereby amended to read as follows:*

686C.210 1. The benefits that the Association may become obligated to cover may not exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) With respect to one life, regardless of the number of policies or contracts:

(1) Three hundred thousand dollars in death benefits from life insurance, but not more than $100,000 in net cash for surrender and withdrawal for life insurance; or

(2) One hundred thousand dollars in the present value of benefits from annuities, including net cash for surrender and withdrawal;

(c) With respect to health insurance for any one natural person:

(1) One hundred thousand dollars for coverages other than disability insurance, basic hospital, medical and surgical insurance or major medical insurance, including any net cash for surrender or withdrawal;

(2) Three hundred thousand dollars for disability insurance; or

(3) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance; or

(d) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, ~~[$100,000]~~ *$250,000* in present value of benefits from the annuity in the aggregate, including any net cash for surrender or withdrawal.

2. In no event is the Association obligated to cover more than:

(a) With respect to any one life or person under paragraphs (b) and (c) of subsection 1:

(1) An aggregate of $300,000 in benefits, excluding benefits for basic hospital, medical and surgical insurance or major medical insurance; or

(2) An aggregate of $500,000 in benefits, including benefits for basic hospital, medical and surgical insurance or major medical insurance.

(b) With respect to one owner of several nongroup policies of life insurance, whether the owner is a natural person or an organization and whether the persons insured are officers, managers, employees or other persons, more than $5,000,000 in benefits, regardless of the number of policies and contracts held by the owner.

3. The limitations set forth in this section are limitations on the benefits for which the Association is obligated before taking into account its rights to subrogation or assignment or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the Association's obligations under this chapter may be met by the use of assets attributable to covered policies, or reimbursed to the Association pursuant to its rights to subrogation or assignment.

4. In performing its obligation to provide coverage under NRS 686C.150 and 686C.152, the Association need not guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured or performed, the contractual obligations of the impaired or insolvent insurer under a covered policy or contract which do not materially affect the economic value or economic benefits of the covered policy or contract.

Sec. 5. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 10, inclusive, of this act.

Sec. 6. An insurer or other organization providing health coverage pursuant to chapter 689B, 689C, 695A, 695B or 695C of NRS is not subrogated to the rights of the insured until after *:* ~~*[the]*~~

(a) The benefits due under the health coverage are paid; and

(b) The insured is reimbursed in full for the costs of covered health care services paid by the insured.

Sec. 7. An insurer or other organization providing health coverage pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C, 695D or 695F of NRS shall comply with the provisions of the Genetic Information Nondiscrimination Act of 2008, Public Law No. 110-233, and any federal regulations issued pursuant thereto.

Sec. 8. An insurer or other organization providing health coverage pursuant to chapter 689B, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law No. 110-343, Division C, Title V, Subtitle B, and any federal regulations issued pursuant thereto.

Sec. 9. An insurer or other organization providing health coverage pursuant to chapter 689B, 689C, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of Michelle's Law, Public Law No. 110-381, and any federal regulations issued pursuant thereto.

Sec. 10. 1. An insurer may include in a policy of group life, dental or health insurance:

(a) An informational statement that informs an employer of the notice requirements established pursuant to subsection 2 of NRS 608.1577; and

(b) Any other provisions not inconsistent with the laws of this State and regulations adopted pursuant thereto.

2. Nothing in subsection 1 shall be construed to grant an insurer the authority to waive the notice requirements established pursuant to subsection 2 of NRS 608.1577. The failure of an insurer to include in a policy of group life, dental or health insurance an informational statement described in paragraph (a) of subsection 1 shall not be construed as a waiver of the notice requirements established pursuant to subsection 2 of NRS 608.1577.

Sec. 10.5. *NRS 687B.040 is hereby amended to read as follows:*

687B.040 1. Any natural person of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But a person shall not procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under the contract are payable to the person insured or his personal representatives, or to a person having, at the time when the contract was made, an insurable interest in the person insured.

2. *A trust shall not procure, cause to be procured or hold an insurance contract upon the life of a person unless each beneficiary of the trust:*

(a) Has an insurable interest in the person insured; or

(b) Is a charitable, benevolent, educational or religious institution, or an agency thereof, and is designated irrevocably as a beneficiary of the trust.

3. If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the person insured, the person insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

~~[3.]~~ *4.* As used in this section, "insurable interest" as to such personal insurance means that every person has an insurable interest in the life, body and health of himself, and of other persons as follows:

(a) In the case of persons related closely by blood or by law, a substantial interest engendered by love and affection; and

(b) In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the person insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the person insured.

~~[4.]~~ *5.* Before, on or after January 1, 1972, an individual party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a corporation or of an interest in such shares, has an insurable interest in the life, body and health of each

individual party to the contract and for the purposes of the contract only, in addition to any insurable interest which may otherwise exist as to the person.

~~[5.]~~ *6.* An insurer is entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the insurable interest of the applicant in the insured. An insurer does not incur legal liability except as otherwise set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

Sec. 11. NRS 687B.120 is hereby amended to read as follows:

687B.120 1. Except as otherwise provided in subsection 2:

(a) No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~[This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.]~~

(b) As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at his request.

2. As to group insurance policies to be issued to a group which was formed for the purpose of purchasing one or more policies of group insurance pursuant to NRS 688B.030 or 689B.026, no policy of group insurance may be marketed to a resident or employer of this State unless the policy and any form of certificate to be issued pursuant to the policy has been filed with and approved by the Commissioner.

3. Every ~~[such]~~ filing made pursuant to the provisions of subsection 1 or 2 must be made not less than 45 days in advance of any ~~[such]~~ delivery ~~[.]~~ pursuant to subsection 1 or any marketing pursuant to subsection 2. At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which he may so affirmatively approve or disapprove any such form, by giving

notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

~~[3.]~~ 4. Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

~~[4.]~~ 5. The Commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof specified in the order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

~~[5.]~~ 6. Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 11.5. *NRS 687B.290 is hereby amended to read as follows:*

687B.290 1. The benefits, rights, privileges and options which under any annuity contract issued prior to or after January 1, 1972, are due or prospectively due the annuitant shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except ~~[: (a) As]~~ *as* to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

~~[(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant shall not at any time exceed $350 per month for the length of time represented by such installments, and such periodic payments in excess of $350 per month shall be subject to garnishee execution to the same extent as are wages and salaries.~~

~~(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, at any time exceed payment at the rate of $350 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the~~

~~judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.]~~

2. If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable or subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained in this section for the annuitant shall apply with respect to such beneficiary or assignee.

Sec. 12. Chapter 688C of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 28, inclusive, of this act.

Sec. 13. "Rescission period" means the shorter period of 60 days after the date on which a viatical settlement is signed by all parties thereto or 30 days after the viator receives the proceeds from that viatical settlement.

Sec. 14. "Viatical settlement investment" has the meaning ascribed to it in section 74 of this act.

Sec. 15. *"Viatical settlement investment agent" or "investment agent of viatical settlements" means a person who is appointed by or contracts with a licensed provider of viatical settlements to solicit or arrange for the funding for the purchase of a viatical settlement by a purchaser of viatical settlements on behalf of the provider of viatical settlements.*

Sec. 16. *"Viatical settlement purchase agreement" means a contract or agreement to which the viator is not a party, and which is entered into by a purchaser of viatical settlements to purchase a life insurance policy or an interest in a life insurance policy for the purpose of deriving an economic benefit.*

Sec. 17. *A financial planner, as defined in subsection 3 of NRS 628A.010, who, on behalf of a viator and for a fee, commission or other valuable consideration not paid by a provider or purchaser of viatical settlements, offers or attempts to negotiate a viatical settlement between the viator and one or more providers or brokers of viatical settlements must be licensed as an insurance consultant pursuant to NRS 683C.020.*

Sec. 18. *1. Persons engaged in the business of viatical settlements are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:*

(a) NRS 679B.230 to 679B.300, inclusive, concerning examinations of insurers.

(b) NRS 679B.310 to 679B.370, inclusive, concerning hearings regarding insurers and employees of insurers.

(c) Chapter 680A of NRS.

(d) Chapter 683A of NRS.

(e) NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.

2. Nothing in this chapter or elsewhere in this title preempts or otherwise limits the provisions of chapter 90 of NRS, or of any rules, regulations or

orders issued by or through the Administrator of the Securities Division of the Office of the Secretary of State or the Administrator's designee acting pursuant to the authority granted by chapter 90 of NRS.

3. Compliance with the provisions of this chapter does not constitute compliance with any applicable provisions of chapter 90 of NRS or with any rule, regulation or order adopted or issued thereunder.

Sec. 19. *A viatical settlement investment agent is deemed to represent the provider of viatical settlements who appointed or contracted with the viatical settlement investment agent.*

Sec. 20. *A viatical settlement investment agent shall not:*

1. Have knowledge of the identity of; or

2. Communicate either directly or indirectly with,

a viator or an insured whose policy of insurance is the object of a viatical settlement for which the viatical settlement investment agent solicits or arranges for the funding for the purchase.

Sec. 21. *1. Before the date on which an agreement to purchase a viatical settlement is signed by all parties thereto, the provider of viatical settlements or a viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements shall provide the purchaser of viatical settlements with the following disclosures:*

(a) A statement that the purchaser will receive no return on the viatical settlement investment, including dividends and interest, until the insured has died and a claim for a death benefit is made pursuant to the viaticated policy.

(b) A statement that the actual annual rate of return on a viatical settlement is dependent upon an accurate projection of the life expectancy of the insured and that a guaranteed annual rate of return is not determinable.

(c) A statement that a viaticated policy is not a liquid asset.

(d) A statement that the purchaser may lose all, or a substantial portion, of the benefits of the viaticated policy if the insurer who issued the policy goes out of business during the term of the viatical settlement investment.

(e) A statement that the purchaser is responsible for the payment of premiums and other costs related to the viaticated policy , including, without limitation, premiums and costs if the insured returns to health, and that those payments may reduce the purchaser's return on the viatical settlement investment.

(f) A statement as to whether the purchaser is entitled to a refund of all or a part of his payment pursuant to the viatical settlement investment if the viaticated policy is later determined to be void.

(g) A statement that a group insurance policy may contain provisions:

(1) Limiting or negating rights of conversion if the policy is terminated and replaced by another policy; and

(2) Requiring the payment of additional premiums if the policy is converted. If the group insurance policy requires a payment of additional premiums if the policy is converted, a disclosure statement pursuant to this

subparagraph must also identify the name of the party responsible for the payment of the additional premiums.

(h) The cost of the premium to be paid by the purchaser.

(i) The costs of any fees or other expenses to be paid by the purchaser.

(j) The name, business address and telephone number of the designated independent escrow agent.

(k) The relationship between the designated independent escrow agent and the broker of viatical settlements.

(l) The risks associated with contestability of the policy, including, without limitation, the risk that the purchaser will have no claim or a limited claim to death benefits if the insurer rescinds the policy during the period of contestability.

(m) A statement as to whether the purchaser will be the owner of the policy in addition to being the beneficiary and, if the purchaser is the beneficiary only and not also the owner, the additional risks associated with that status, including, without limitation, the risk that the beneficiary may be changed or the premium may not be paid.

(n) A description of the experience and qualifications of the person who projects the life expectancy of the insured, the information on which the projection is based and the relationship, if any, between the person who makes the projection and the provider of viatical settlements.

2. The provider of viatical settlements or the viatical settlement investment agent shall also provide to the purchaser of viatical settlements a brochure that describes the process of investment in viatical settlements. The form of the brochure created by the National Association of Insurance Commissioners must be used unless an alternate is developed by the Commissioner.

Sec. 22. *Not later than the date of assignment, transfer or sale of all or a portion of a viaticated policy, a provider of viatical settlements or a viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements shall provide a purchaser of a viatical settlement with the following disclosures:*

1. All certifications relating to the life expectancy of the viator that were obtained by the provider of viatical settlements in the process of determining the price that was paid to the viator.

2. A statement as to whether premium payments or money for the payment of other costs related to the policy has been deposited in an escrow account.

3. If payments or money has been deposited in an escrow account, a statement of the date that the escrow account will be depleted and as to whether the purchaser of viatical settlements will be responsible for payment of premiums thereafter and, if so, a statement of the amount of the premiums.

4. A statement as to whether premiums or other costs related to the policy have been waived.

5. If premiums or other costs have been waived, a statement as to whether the purchaser will be responsible for payment of the premiums if the insurer that issued the policy terminates the waiver after the purchase, and a statement of the amount of the premiums.

6. The type of policy offered or sold, any additional benefits included with the policy and the status of the policy.

7. If the policy is term insurance, a statement of the additional risks associated with term insurance, including, without limitation, the purchaser's responsibility for additional premiums if the viator renews the policy at the end of the term which is effective at the time of the purchase.

8. The period of contestability, if any, remaining under the policy.

9. A statement of rights held by the insurer that could negatively affect or extinguish the rights of the purchaser of viatical settlements and the conditions under which the rights can be exercised.

Sec. 23. *Disclosures made pursuant to sections 21 and 22 of this act must be printed conspicuously in at least 12-point type in any contract or in a separate document signed by the purchaser of viatical settlements and:*

1. The provider of viatical settlements; or

2. The viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements.

Sec. 24. *If a broker or provider of viatical settlements is a party to a plan, a transaction or a series of transactions to originate, renew or continue a policy of life insurance for the purpose of engaging in the business of viatical settlements before or during the first 5 years after the issuance of the policy, the broker or provider shall fully disclose the plan, transaction or transactions to the issuer of the policy.*

Sec. 25. *With respect to a viatical settlement or a policy of insurance:*

1. A broker of viatical settlements shall not knowingly solicit an offer from, effectuate a viatical settlement with or make a sale to any provider, purchaser or investment agent of viatical settlements ~~[.]~~ *who:*

(a) Controls;

(b) Is controlled by; or

(c) Is under common control with,

the broker of viatical settlements.

2. A provider of viatical settlements shall not knowingly enter into a viatical settlement with a viator if, in connection with that viatical settlement, anything of value will be paid to a broker of viatical settlements who controls, is controlled by or is under common control with a provider, purchaser or investment agent of viatical settlements who is involved in the viatical settlement.

Sec. 26. *An insurer shall not, as a condition of responding to a request for verification of coverage or of effecting the transfer of a policy pursuant to a viatical settlement, require that the viator, insured, provider or broker of viatical settlements sign a form or disclosure that has not been expressly*

approved by the Commissioner for use in connection with a viatical settlement in this State.

Sec. 27. *The Commissioner may place a broker or investment agent of viatical settlements on probation if the Commissioner finds that the broker or investment agent of viatical settlements has acted in bad faith with regard to a viator.*

Sec. 28. *1. If the Commissioner finds that a producer of life insurance has violated a provision of this chapter or other applicable provisions or has acted in bad faith with regard to a viator, the Commissioner may:*

(a) Refuse to:

(1) Issue a ~~[certificate of authority]~~ license to the producer of life insurance; or

(2) Renew a ~~[certificate of authority]~~ license of the producer of life insurance;

(b) Suspend the producer of life insurance for a period not to exceed 12 months; or

(c) Place the producer of life insurance on probation.

2. If the Commissioner takes action as described in paragraphs (a), (b) ~~[and]~~ or (c) of subsection 1, the producer of life insurance may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.

Sec. 29. NRS 688C.010 is hereby amended to read as follows:

688C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 688C.020 to 688C.150, inclusive, *and sections 13 to 16, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 30. NRS 688C.020 is hereby amended to read as follows:

688C.020 "Advertising" means a written, electronic or printed communication or a communication by recorded telephone message, radio, television, the Internet or a similar medium of communication, including a film strip, motion picture or videotape, published, communicated or otherwise placed before the public to create an interest in, or induce a person to *purchase or* sell a policy of life insurance pursuant to, a viatical settlement.

Sec. 31. NRS 688C.030 is hereby amended to read as follows:

688C.030 "Broker of viatical settlements" means a person who on behalf of a viator and for a fee, commission or other valuable consideration offers or attempts to negotiate a viatical settlement between the viator and one or more providers *or brokers* of viatical settlements. The term does not include an attorney at law, certified public accountant or financial planner accredited by a nationally recognized accrediting agency who is retained by the viator and whose compensation is not paid by a provider or purchaser of viatical settlements.

Sec. 32. NRS 688C.080 is hereby amended to read as follows:

688C.080 "Provider of viatical settlements" means a person other than a viator who enters into or effectuates a viatical settlement. The term does not include:

1. A bank, savings and loan association, thrift company, credit union or other licensed lender that takes an assignment of a policy as security for a loan;

2. The issuer of a policy that provides accelerated benefits pursuant to the contract;

3. An authorized or eligible insurer that provides stop-loss coverage to a provider or purchaser of viatical settlements;

4. A natural person who enters into no more than one agreement in a calendar year for the transfer of policies for a value less than the expected death benefit;

5. A financing agent;

6. A special organization; *or*

7. ~~[A trust for a related provider; or~~

~~8.]~~ A purchaser of viatical settlements.

Sec. 33. NRS 688C.090 is hereby amended to read as follows:

688C.090 *1.* "Purchaser of viatical settlements" means ~~[a]~~ *:*

(a) A person who gives a sum of money as consideration for a policy or an interest in the death benefits of a policy ~~[, or a]~~ *;*

(b) A person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract *as described in subsection 2 of NRS 687B.040;* or

(c) A person who is the beneficiary of a policy that has been or will be the subject of a viatical settlement contract,

➥ for the purpose of deriving an economic benefit.

2. The term does not include:

~~[1.]~~ *(a)* A person licensed pursuant to this chapter;

~~[2.]~~ *(b)* An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;

~~[3.]~~ *(c)* A financing agent; *or*

~~[4.]~~ *(d)* A special organization . ~~[; or~~

~~5. A trust for a related provider.]~~

Sec. 34. NRS 688C.130 is hereby amended to read as follows:

688C.130 "Viatical settlement" means a written agreement *between a viator and a provider of viatical settlements or an affiliate thereof* for the payment of money, or anything else of value, which is less than the expected death benefit of a policy, in exchange for the viator's assignment, sale, transfer or devise of the death benefit or ownership of any portion of the policy. The term includes ~~[:~~

~~1. An agreement for a loan or other financing secured primarily by a policy, other than a loan by an insurer pursuant to or secured by the cash value of a policy; and~~

~~2. An~~ *an* agreement to transfer ownership or change the beneficiary, in the future, regardless of the date of payment to the viator.

Sec. 35. NRS 688C.150 is hereby amended to read as follows:

688C.150 *1.* "Viator" means the owner of a policy or the holder of a certificate of insurance under a policy of group insurance ~~[.]~~ *who resides in this State and who enters or seeks to enter into a viatical settlement.* The term is not limited to an owner who is terminally or chronically ill except where that limitation is expressly provided.

2. The term does not include:

(a) A producer of life insurance acting as a broker of viatical settlements pursuant to this chapter;

(b) A qualified institutional buyer as defined in Rule 144A of the federal Securities Act of 1933, 15 U.S.C. §§ 77a et seq., as amended;

(c) A financing agent; or

(d) A special organization.

Sec. 36. NRS 688C.160 is hereby amended to read as follows:

688C.160 If there is more than one viator *or purchaser of viatical settlements* with respect to a single policy and they are residents of different states, *one of whom resides in this State and enters or seeks to enter into a viatical settlement or an agreement to purchase a viatical settlement,* the legal effect of ~~[a]~~ *the* viatical settlement *or agreement to purchase a viatical settlement, as applicable,* is governed by the law of the state in which the viator *or purchaser* having the largest fractional ownership resides. If the viators *or purchasers of viatical settlements* own equal fractions, they may agree in writing to choose ~~[the]~~ *which* state *, among the states* in which ~~[one resides.]~~ *the viators or purchasers of viatical settlements reside, will be the state whose law will govern.*

Sec. 37. NRS 688C.190 is hereby amended to read as follows:

688C.190 1. Except as otherwise provided in NRS 688C.215, a person shall not, without first obtaining a license from the Commissioner, operate in or from this State as *an investment agent or* a provider or broker of viatical settlements.

2. Application for a license must be made to the Commissioner on a form prescribed by him, accompanied by the prescribed fee. A license may be renewed from year to year on its anniversary by payment of the prescribed fee. The license expires if the fee is not paid by that date.

3. An applicant shall provide information on forms required by the Commissioner, who may at any time require the applicant to disclose the identity of all stockholders, partners, members, officers and employees. The Commissioner may refuse to issue a license to an organization if he is not satisfied that a stockholder, partner, member or officer who may materially influence the applicant's conduct satisfies the requirements of this chapter.

4. A license issued to an organization authorizes all partners, members, officers and designated employees to act as *investment agents or* providers or

brokers of viatical settlements. Those persons must be named in the application or a supplement to it.

Sec. 38. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of the fee, the Commissioner shall investigate the applicant, and issue a license if he finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies him in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements ~~[, has]~~ *:*

(1) Has included a plan to prevent fraud which satisfies the requirements of NRS 688C.490 ~~[.]~~ *; and*

(2) Has demonstrated evidence of financial responsibility through either:

(I) A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than $250,000; or

(II) A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of $250,000.

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a broker of viatical settlements.

5. A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:

(a) Erroneous acts;

(b) Failure to act; or

(c) Conviction of:

(1) Fraud; or

(2) Unfair practices,

➥ *by the provider or broker of viatical settlements.*

6. The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time he deems necessary.

Sec. 39. NRS 688C.210 is hereby amended to read as follows:

688C.210 *1.* After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if he finds that:

~~[1.]~~ *(a)* There was material misrepresentation in the application for the license;

~~[2.]~~ *(b)* The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;

~~[3.]~~ *(c)* A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;

~~[4.]~~ *(d)* The applicant or licensee has been found guilty or guilty but mentally ill of, or pleaded guilty, guilty but mentally ill or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;

~~[5.]~~ *(e)* A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;

~~[6.]~~ *(f)* A provider of viatical settlements has failed to honor obligations of a viatical settlement ~~[;~~

~~7.]~~ *or an agreement to purchase a viatical settlement;*

(g) The licensee no longer meets a requirement for initial licensure;

~~[8.]~~ *(h)* A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement ~~[,]~~ *or* a special organization ~~[or a trust for a related provider;~~

~~9.]~~ *;*

(i) The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

~~[10.]~~ *(j)* The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; ~~[or~~

~~11.]~~ *(k)* The applicant or licensee has violated a provision of this chapter ~~[.]~~ *or other applicable provisions; or*

(l) The applicant or licensee has acted in bad faith with regard to a viator.

2. A suspension imposed for grounds set forth in paragraph (k) or (l) of subsection 1 must not exceed a period of 12 months.

3. If the Commissioner takes action as described in subsection 1, the applicant or licensee may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the

Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.

Sec. 40. NRS 688C.215 is hereby amended to read as follows:

688C.215 1. A natural person who has been licensed for at least 1 year and who is in good standing as a resident or nonresident producer of insurance with a life insurance qualification is not required to be licensed as *an investment agent or* a broker of viatical settlements.

2. A licensed producer of insurance specified in subsection 1 must register with the Division not more than 30 days after first operating as *an investment agent or* a broker of viatical settlements, on a form prescribed by the Commissioner, and pay the fee for registration pursuant to NRS 680B.010. Failure to register within the required period or late payment of or failure to pay the fee may result in the imposition of an administrative fine of not more than $500.

3. A producer of insurance who acts as *an investment agent or* a broker of viatical settlements pursuant to subsection 1 shall comply with the provisions of NRS 688C.220 to 688C.250, inclusive, and 688C.310.

Sec. 41. NRS 688C.230 is hereby amended to read as follows:

688C.230 1. Each licensee under this chapter shall file with the Commissioner on or before March 1 of each year an annual statement containing such information as the Commissioner prescribes by regulation. *Pursuant to subsection 7 of NRS 679B.190, the Commissioner shall classify as confidential any information received pursuant to this subsection that is:*

(a) Data of individual transactions in the business of viatical settlements; or

(b) Data that could compromise the privacy of personal, financial or health information of a viator or insured.

2. Except as allowed or required by a statute other than this chapter, a provider or broker of viatical settlements, *an investment agent,* an insurer, a producer of insurance, an information bureau, a rating agency or any other person knowing the identity of an insured shall not disclose that identity as an insured to any other person unless the disclosure is:

(a) Necessary to effect a viatical settlement between the viator and a provider of viatical settlements and the viator and the insured have given prior written consent to the disclosure;

(b) *Necessary to effect an agreement for the purchase of a viatical settlement between the purchaser and a provider of viatical settlements, and the viator and the insured have given prior written consent to the disclosure;*

(c) Furnished in response to an investigation or examination by the Commissioner or another governmental officer or agency;

~~[(c)]~~ *(d)* A term of or condition to the transfer of a policy by one provider of viatical settlements to another provider; or

~~[(d)]~~ *(e)* Necessary to permit a financing agent to finance the purchase of a policy by a provider of viatical settlements and the insured has given prior written consent to the disclosure.

Sec. 42. NRS 688C.250 is hereby amended to read as follows:

688C.250 1. With each application for a viatical settlement, a provider or broker of viatical settlements shall furnish to the viator at least the following disclosures *, in at least 12-point type,* no later than the time the application for the settlement is signed by all the parties, in a separate document signed by the viator and the provider or broker:

(a) *A broker of viatical settlements represents the viator exclusively, and not the insurer or the provider of viatical settlements, and owes a fiduciary duty to the viator, including a duty to act according to the instructions of the viator and in the best interest of the viator.*

(b) The possible alternatives to viatical settlement, including any accelerated death benefits or *policy* loans offered under the viator's *life insurance* policy.

~~[(b)]~~ *(c)* Some or all of the proceeds of the viatical settlement may be taxable under the federal income tax or a state franchise or income tax, and assistance should be sought from a professional tax adviser.

~~[(c)]~~ *(d)* Proceeds of the viatical settlement may be subject to the claims of creditors.

~~[(d)]~~ *(e)* Receipt of proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other governmental benefits, and advice should be sought from the appropriate governmental agencies.

~~[(e)]~~ *(f)* The viator has a right to ~~[terminate]~~ *rescind* a viatical settlement within ~~[15 days after his receipt of the proceeds,]~~ *the rescission period,* as provided in NRS 688C.300, and if the insured dies during ~~[that]~~ *the rescission* period, the settlement is ~~[terminated]~~ *deemed rescinded,* and all proceeds must be repaid to the provider ~~[.~~

~~(f)]~~ *within 60 days after the death of the insured. Rescission, if exercised by the viator, is effective only if the viator:*

(1) Gives notice of the rescission to the provider or broker of viatical settlements; and

(2) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements,

➥ *within the rescission period.*

(g) Money will be sent to the viator within 3 business days after the provider has received the insurer's or group administrator's *written* acknowledgment that ownership of or interest in the policy has been transferred and the beneficiary has been designated.

~~[(g)]~~ *(h)* Entering into a viatical settlement may cause other rights, including conversion and waiver of premium, that may exist under the policy to be forfeited by the viator, and assistance should be sought from a financial adviser.

~~[(h)]~~ *(i)* A brochure is provided which describes the process of viatical settlement, in the form prescribed by the National Association of Insurance Commissioners unless the Commissioner prescribes a different form.

(j) The name and address of the person responsible for monitoring the condition of the insured, the frequency of monitoring, the means of determining date of death and the means and time by which the date of death will be transmitted to the purchaser.

2. The document in which the disclosures required by paragraphs (a) to ~~[(g),]~~ *(j),* inclusive, of subsection 1 are made must also contain the following:

All medical, financial and personal information solicited or obtained by a provider or broker of viatical settlements about an insured, including his identity and that of members of his family, a spouse or other relationship, may be disclosed as necessary to effect the viatical settlement between the viator and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. Failure to consent may affect your ability to viaticate your policy. The information may be furnished to someone who buys the policy or provides money for the purchase.

Sec. 43. NRS 688C.260 is hereby amended to read as follows:

688C.260 A provider of viatical settlements shall furnish to the viator, no later than the date the viatical settlement is signed by all parties, at least the following disclosures, *in at least 12-point type,* conspicuously displayed in the viatical settlement or in a separate document signed by the viator and the provider or broker of viatical settlements:

1. The affiliation, if any, between the provider *of viatical settlements* and the issuer of the policy to be viaticated.

2. The name, *business* address and telephone number of the provider ~~[.]~~ *of viatical settlements.*

3. ~~[The amount and method of calculating the broker's commission, including anything of value paid or given to the broker for placing the policy.]~~ *The name, business address and telephone number of the broker of viatical settlements.*

4. ~~*[Any]*~~ *The existence of any affiliations or contractual agreements between the provider and purchaser of viatical settlements* ~~*[.]*~~ *and:*

(a) The identity of that purchaser of viatical settlements; and

(b) If any contractual agreements exist between the provider and purchaser of viatical settlements, the identity of every party to those agreements.

5. ~~*[Any]*~~ *The existence of any affiliations or contractual agreements between the broker of viatical settlements and any person making an offer in connection with the proposed viatical settlement* ~~*[.]*~~ *and:*

(a) The identity of the person making the offer and who has an affiliation or agreement with the broker of viatical settlements; and

(b) If any contractual agreements exist between the broker of viatical settlements and a person making an offer, the identity of every party to those agreements.

6. If the policy to be viaticated was issued as a joint policy, contains family riders or covers a life other than that of the insured under it, any

possible loss of coverage on the other lives under the policy, and that the viator should consult the producer of the insurance or the issuer of the policy for advice concerning the settlement.

~~[5.]~~ *7.* The monetary amount of the current death benefit payable to the provider under the policy and, if known, the availability of any other guaranteed benefit, the monetary amount of any benefit for accidental death or dismemberment, and the ~~[provider's]~~ *extent to which the viator's* interest in those benefits ~~[~~.

~~6.]~~ *will be transferred as a result of the viatical settlement.*

8. The name, business address and telephone number of the escrow agent, and the right of the viator or owner to inspect or receive copies of the relevant escrow or trust agreements or related documents.

9. A complete and accurate description of all offers, counteroffers, acceptances and rejections relating to the proposed viatical settlement.

10. The amount and method of calculation of compensation of the broker of viatical settlements, including, without limitation, anything of value paid or given to the broker of viatical settlements for the placement of the policy.

11. A statement indicating the source of any compensation of the broker of viatical settlements from a proposed offer for the viatical settlement, the total amount of the offer for the viatical settlement and the compensation of the broker of viatical settlements expressed as a percentage of the offer for the viatical settlement.

Sec. 44. NRS 688C.270 is hereby amended to read as follows:

688C.270 1. A viator may not enter into a viatical settlement within ~~[2]~~ *5* years after the issuance of the policy to which the settlement relates unless one or more of the following conditions is or has been satisfied:

(a) The policy was issued upon the owner's exercise of a right of conversion arising out of a group policy ~~[~~.

~~(b) The owner of the policy is a charitable organization exempt from taxation under 26 U.S.C. § 501(c)(3).~~

~~(c) The owner of the policy is a business organization.~~

~~(d)~~] *if the total of the time covered under the policy plus the time covered under the group policy is at least 60 months. The time covered under the group policy must be calculated without regard to a change in insurance carriers if the coverage has been continuous.*

(b) The viator or owner submits to the provider of viatical settlements independent evidence that within the ~~[2-year]~~ *5-year* period:

(1) *The owner or insured has been diagnosed as terminally ill;*

(2) The owner or insured has been diagnosed ~~[to have]~~ *as chronically ill or has* an illness or condition that is life-threatening or requires a course of treatment for at least 2 years, long-term care or health care at home, or any combination of these;

~~[(2)]~~ *(3)* The spouse of the owner or insured has died;

~~[(3)]~~ *(4)* The owner or insured has divorced his spouse;

~~[(4)]~~ *(5)* The owner or insured has retired from full-time employment;

~~[(5)]~~ *(6)* The owner or insured has become physically or mentally disabled and a physician determines that the disability precludes him from maintaining full-time employment;

~~[(6) The owner of the policy was the employer of the insured and that relationship has terminated;]~~

(7) A final judgment or order has been entered or issued by a court of competent jurisdiction, on the application of a creditor or owner of the insured, adjudging the owner or insured bankrupt or insolvent, or approving a petition for reorganization of the owner or insured or appointing a receiver, trustee or liquidator for all or a substantial part of the assets of the owner or insured; *or*

(8) The owner of the policy experiences a significant decrease in income which is unexpected by him and impairs his reasonable ability to pay the premium on the policy . ~~[; or~~

~~(9) The owner or insured disposes of his ownership in a closely held corporation.]~~

2. The independent evidence must be submitted to the insurer when the provider of viatical settlements submits a request to the insurer to effect transfer of the policy to him. The insurer shall respond timely to the request. This section does not prohibit an insurer from exercising its right to contest a policy on the ground of fraud.

3. If a provider of viatical settlements submits to an insurer a copy of the owner's or insured's certification that one of the events described in paragraph ~~[(d)]~~ *(b)* of subsection 1 has occurred, the certification conclusively establishes that the viatical settlement is valid, and the insurer shall timely respond to the provider's request to effect a transfer of the policy.

Sec. 45. NRS 688C.280 is hereby amended to read as follows:

688C.280 1. A provider of viatical settlements who enters into a settlement shall first obtain:

(a) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a settlement;

(b) A witnessed document in which the viator ~~[represents]~~ *:*

(1) Consents to the viatical settlement;

(2) Represents that he has a full and complete understanding of the settlement and of the benefits of the policy ~~[, acknowledges]~~ *;*

(3) Acknowledges that he has entered into the settlement freely and voluntarily *;* and ~~[, if]~~

(4) If applicable to determine a payment to a person terminally or chronically ill, acknowledges that he is terminally or chronically ill and that the illness was diagnosed after the policy was issued; and

(c) A document in which the insured consents to the release of his medical records to a provider or broker of viatical settlements and the insurer that issued the policy covering him.

2. Within 20 days after a viator executes documents necessary to transfer rights under a policy, or enters into an agreement in any form, express or implied, to viaticate the policy, the provider of viatical settlements shall give written notice to the issuer of the policy that the policy has or will become viaticated. The notice must be accompanied by: ~~[a]~~

(a) A copy of the release of medical records ~~[and the]~~ *;*

(b) The application for the viatical settlement ~~[.]~~ *; and*

(c) A request for verification of coverage.

3. Any of the acts described in subsections 1 and 2, if performed by a broker of viatical settlements, will be deemed to have been performed by the provider of viatical settlements for the purposes of fulfilling the requirements of subsections 1 and 2.

4. Within 30 days after receiving a request for verification of coverage from a provider or broker of viatical settlements, an insurer shall respond by:

(a) Verifying coverage; and

(b) Indicating whether, on the basis of the medical evidence and documents provided, the insurer intends to pursue an investigation regarding the validity of the insurance or possible fraud.

Sec. 46. NRS 688C.290 is hereby amended to read as follows:

688C.290 1. A provider of viatical settlements shall instruct the viator to send the executed documents required to effect the change in ownership or assignment or change of beneficiary of the affected policy to a designated independent escrow agent. Within 3 business days after the date the escrow agent receives the documents, or within 3 business days after the provider receives the documents if by mistake they are sent directly to him, the escrow agent shall deposit the proceeds of the settlement into an escrow or trust account maintained in a regulated financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

2. Upon deposit of the proceeds in that account, the escrow agent shall deliver to the provider the original documents executed by the viator. Upon the provider's receipt from the insurer of an acknowledgment of the change in ownership or assignment or change of beneficiary of the affected policy, he shall instruct the escrow agent to pay the proceeds of the settlement to the viator.

3. Payment to the viator must be made within 3 business days after the date the provider received the acknowledgment from the insurer. Failure to make the payment within that time makes the viatical settlement voidable by the viator for lack of consideration until payment is tendered to and accepted by the viator. *Payment to the viator shall be deemed to have been made as of the date that the escrow agent:*

(a) Releases money for a wire transfer to the viator; or

(b) Deposits a check for the amount of the proceeds with the United States Postal Service or with a commercially reasonable delivery service.

Sec. 47. NRS 688C.300 is hereby amended to read as follows:

688C.300 *1.* A viatical settlement entered into in this state must reserve to the viator an unconditional right to ~~[terminate]~~ *rescind* the settlement within ~~[15 days after he receives the proceeds of the settlement.]~~ *the rescission period. Rescission, if exercised by the viator, is effective only if the viator:*

(a) Gives notice of the rescission to the provider or broker of viatical settlements; and

(b) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements,

➥ *within the rescission period.*

2. If the insured dies during ~~[that]~~ *the rescission* period, the settlement is ~~[terminated, but the]~~ *deemed rescinded and all* proceeds *and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements* must be repaid to the provider of ~~[the]~~ viatical ~~[settlement.]~~ *settlements within 60 days after the death of the insured.*

3. In the event of a rescission, if the provider of viatical settlements has paid commissions or other compensation to a broker of viatical settlements in connection with the rescinded transaction, the broker of viatical settlements shall refund all such commissions and compensation to the provider of viatical settlements within 5 business days following receipt of written demand from the provider of viatical settlements. The demand must be accompanied by:

(a) The viator's notice of rescission, if the rescission was exercised by the viator; or

(b) Notice of the death of the insured, if the rescission was due to the death of the insured within the rescission period.

4. A purchaser of viatical settlements has the right to rescind an agreement to purchase a viatical settlement within 3 business days after the purchaser of viatical settlements receives the disclosures set forth in sections 21 and 22 of this act.

Sec. 48. NRS 688C.310 is hereby amended to read as follows:

688C.310 1. Contact with an insured to determine *his residential or business street address and telephone number or* the status of his health after a viatical settlement may be made only by a provider or broker of viatical settlements who is licensed in this state, or its authorized representative, and no oftener than once every 3 months if the insured has a life expectancy of 1 year or more, or once every month if the insured has a life expectancy of less than 1 year. The provider or broker shall explain the procedure for those contacts at the time the settlement is entered into.

2. The limitations of subsection 1 do not apply to contacts for purposes other than determining status of health.

3. A provider or broker is responsible for the acts of his authorized representative.

Sec. 49. NRS 688C.330 is hereby amended to read as follows:

688C.330 *1.* If a provider of viatical settlements transfers ownership or changes the beneficiary of a viaticated policy, he shall inform the insured of the transfer or change within 20 days after it occurs.

2. If an insurer receives a request for change of ownership or beneficiary of a viaticated policy from a provider of viatical settlements, the insurer shall respond within 30 days after receipt thereof with written confirmation that the change has been effected or specifying the reasons why the requested change could not be effected.

3. An insurer shall not unreasonably delay in effecting a requested change of ownership or beneficiary requested for a viaticated policy by a provider of viatical settlements.

4. An insurer shall not seek to interfere with a viatical settlement lawfully entered into in this State.

Sec. 50. NRS 688C.350 is hereby amended to read as follows:

688C.350 NRS 688C.350 to 688C.430, inclusive, *and sections 21, 22 and 23 of this act* apply to advertising of viatical settlements *, agreements to purchase viatical settlements* or related *products or* services intended for dissemination in this state, including advertising on the Internet which is viewed by persons in this state. To the extent that federal regulation establishes requirements for disclosure, those sections must be so interpreted as to eliminate or minimize conflict with the federal requirements.

Sec. 51. NRS 688C.370 is hereby amended to read as follows:

688C.370 *1.* An advertisement must be truthful and not misleading in fact or by implication. The form and content of an advertisement for viatical settlements *, agreements to purchase viatical settlements or related products or services* must be sufficiently complete and clear to avoid deception. An advertisement may not have a capacity or tendency to mislead or deceive, as determined by the Commissioner from the overall impression it may reasonably be expected to create upon a person of average education or intelligence in the segment of the public to which it is directed.

2. A provider of viatical settlements shall not enter into a viatical settlement unless the promotional, advertising and marketing materials, in at least 12-point type, have been filed with the Commissioner pursuant to regulations adopted by the Commissioner. The Commissioner shall adopt such regulations as he deems necessary to carry out the provisions of this subsection.

Sec. 52. NRS 688C.380 is hereby amended to read as follows:

688C.380 1. The information required to be disclosed under NRS 688C.350 to 688C.430, inclusive, *and sections 21, 22 and 23 of this act* may not be minimized, obscured, presented ambiguously or so intermingled with other text of an advertisement as to be confusing or misleading.

2. An advertisement may not omit material information or use language or illustrations if the omission or use has a capacity or tendency to, or does, mislead viators *, purchasers of viatical settlements or prospective purchasers of viatical settlements* as to the nature or extent of any benefit, loss covered,

premium payable or effect on federal or state taxes. Making a viatical settlement *or an agreement to purchase a viatical settlement* available for inspection before it is consummated, or offering to refund payment if the viator is not satisfied within the period prescribed in *subsection 4 of* NRS 688C.300, does not remedy misleading statements.

3. An advertisement may not use the name or title of an insurer or policy unless the advertisement has been approved by the insurer.

4. *An advertisement may not represent that premiums on a viaticated policy need not be paid in order to maintain that policy, unless that is the fact.*

5. An advertisement may not state or imply that interest charged on an accelerated death benefit or loan on a policy is unfair or in any way improper.

~~[5.]~~ *6.* The words "free," "no additional cost" or words of similar import may not be used ~~[with]~~ *:*

(a) With respect to insurance, unless the terms of the policy provide that the policy is provided without cost to the policyholder.

(b) With respect to any benefit or service *other than insurance* unless true.

7. Certain advertisements relating to viatical settlements are deemed to be false and misleading on their face and are prohibited. Those advertisements include, without limitation, the following words and phrases:

(a) "Guaranteed," "fully secured," "100 percent secured," "fully insured," "secure," "safe," "backed by rated insurance companies," "backed by federal law," "backed by state law" or "state guaranty funds";

(b) "No risk," "minimal risk," "low risk," "no speculation" or "no fluctuation";

(c) "Qualified or approved for individual retirement accounts (IRAs), Roth IRAs, 401(k) plans, simplified employee pensions (SEPs), 403(b) plans, Keogh plans, TSA, other retirement account rollovers" or "tax deferred";

(d) Utilization of the word "guaranteed" to describe a fixed return, annual return, principal, earnings, profits or investment;

(e) "No sales charges or fees";

(f) "High yield," "superior return," "excellent return," "high return" or "quick profit"; and

(g) Favorable representations or testimonials about the benefits of viatical settlement contracts and agreements to purchase viatical settlements as an investment, out of context and purported to have been taken from newspapers, trade papers, journals, radio and television programs and all other forms of print and electronic media,

➥ or similar representations.

Sec. 53. NRS 688C.390 is hereby amended to read as follows:

688C.390 1. A testimonial, *endorsement,* appraisal or analysis used in an advertisement must be genuine, represent the present opinion of the author, apply to the viatical settlement *or agreement to purchase a viatical settlement* advertised, if any, and be reproduced with sufficient completeness

to avoid misleading viators ~~[.]~~ *or purchasers of viatical settlements.* In using a testimonial, *endorsement,* appraisal or analysis, a licensee under this chapter makes the statements contained therein his own, and the statements must satisfy the requirements of NRS 688C.350 to 688C.430, inclusive ~~[.]~~ , *and sections 21, 22 and 23 of this act.*

2. If the person making a testimonial, *endorsement,* appraisal, analysis or endorsement has a financial interest in the provider of viatical settlements or a related organization, or receives a benefit other than required wages, that fact must be prominently disclosed in the advertisement.

3. An advertisement may not state or imply that a *benefit or service related to a* viatical settlement ~~[, benefit or service]~~ *or an agreement to purchase a viatical settlement* has been approved or endorsed by a group, society or other organization unless that is the fact and any relationship between the organization and the provider of viatical settlements is disclosed. If the organization is owned, controlled or managed by the provider, or receives any payment or other consideration from the provider for making the endorsement or testimonial, that fact must be disclosed in the advertisement.

4. An advertisement may not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement must be identified.

5. If an endorsement refers to benefits received under a viatical settlement or an agreement to purchase a viatical settlement, all information pertinent to that endorsement must be retained for a period of 5 years after the use of the endorsement.

Sec. 54. NRS 688C.410 is hereby amended to read as follows:

688C.410 1. The name of the provider of viatical settlements must be clearly identified in an advertisement about him , ~~[or]~~ his viatical settlements *or his agreements to purchase viatical settlements*. If a viatical settlement *or an agreement to purchase a viatical settlement* is advertised, it must be identified by number or other appropriate description. If an application is part of an advertisement, the name of the provider must be shown on the application.

2. An advertisement may not use a trade name, designation of a group, name of a parent or particular division of a provider of viatical settlements, service mark, slogan or other device or reference without disclosing the identity of the provider of viatical settlements licensed under this chapter if the advertisement would have the capacity or tendency to mislead as to his true identity or create the impression that an organization other than the licensee would have a responsibility for the financial obligation under a viatical settlement. The name of the licensee must be stated in all advertisements.

Sec. 55. NRS 688C.420 is hereby amended to read as follows:

688C.420 1. An advertisement may not use a combination of words, symbols or physical materials that by their content, phraseology, shape, color

or other characteristic are so similar to a combination of words, symbols or physical materials used by a governmental program or agency, or otherwise appear to be of such a nature, that they tend to mislead viators *or purchasers of viatical settlements* into believing that the solicitation is connected with a governmental program or agency. An advertisement may not create the impression that a provider of viatical settlements, his financial condition or business practices, the payment of his claims or the merit, desirability or advisability of his viatical settlements *or agreements to purchase viatical settlements* is recommended or endorsed by a governmental authority.

2. An advertisement may state that a provider of viatical settlements is licensed in the state in which the advertisement appears, if it does not imply that competing providers are not so licensed. The advertisement may suggest consulting the licensee's website or communicating with the Commissioner to ascertain whether the state requires licensing and, if so, whether a particular provider or broker of viatical settlements is licensed.

Sec. 56. NRS 688C.450 is hereby amended to read as follows:

688C.450 It is a category D felony, and the offender shall be punished as provided in NRS 193.130, for any person, knowingly or with intent to defraud, to do any of the following acts in order to deprive another of property or for his own pecuniary gain:

1. Present, cause to be presented or prepare with knowledge or belief that it will be presented, false information to or by *an investment agent or* a provider or broker of viatical settlements, a financing agent, an insurer, a provider of insurance or any other person, or to conceal information, as part of, in support of or concerning a fact material to:

(a) An application for the issuance of a policy or viatical settlement;

(b) The underwriting of a policy or viatical settlement;

(c) A claim for payment or other benefit under a policy , ~~[or]~~ viatical settlement ~~[;]~~ *or agreement to purchase a viatical settlement;*

(d) A premium paid on a policy ~~[;]~~ *or as a result of an agreement to purchase a viatical settlement;*

(e) A payment or change of beneficiary or ownership pursuant to a policy or viatical settlement;

(f) The reinstatement or conversion of a policy;

(g) The solicitation, offer or effectuation of a policy , ~~[or]~~ viatical settlement ~~[;]~~ *or agreement to purchase a viatical settlement;* or

(h) The issuance of written evidence of a policy , ~~[or]~~ viatical settlement ~~[.]~~ *or agreement to purchase a viatical settlement.*

2. In furtherance of a fraud or to prevent detection of a fraud:

(a) Remove, conceal, alter, destroy or sequester from the Commissioner assets or records of a licensee under this chapter or other person engaged in the business of viatical settlements;

(b) Misrepresent or conceal the financial condition of a licensee, a financing agent, an insurer or other person;

(c) Transact the business of viatical settlements in violation of this chapter; or

(d) File with the Commissioner or analogous officer of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the Commissioner or other officer.

3. Present, cause to be presented or prepare with knowledge or belief that it will be presented to or by a provider or broker of viatical settlements, *an investment agent*, a financing agent, an insurer, a provider of insurance or any other person, in connection with a viatical settlement or transaction of insurance, a policy fraudulently by the insured or owner or an agent of either.

4. Embezzle, steal, misappropriate or convert money, premiums, credits or other property *in an amount or having a value of less than $250* of a provider of viatical settlements, a viator, an insurer, an insured, an owner of a policy or other person engaged in the business of viatical settlements or insurance.

5. Attempt to commit, assist, aid, abet or conspire to commit an act or omission described in subsections 1 to 4, inclusive.

6. Under no circumstances is a violation of this section considered or intended to be a lesser included offense of a violation of the provisions of NRS 90.570.

Sec. 57. NRS 688C.470 is hereby amended to read as follows:

688C.470 1. Except as otherwise provided in subsection 2, a person furnishing information of the kind described in NRS 688C.460 is immune from liability and civil action if the information is furnished to or received from:

(a) The Commissioner or his employees, agents or representatives;

(b) Another federal, state or local law enforcement or regulatory officer or his employees, agents or representatives;

(c) Another person involved in the prevention or detection of violations of NRS 688C.450 or similar offenses or his employees, agents or representatives;

(d) The National Association of Insurance Commissioners or other regulatory body overseeing life insurance or viatical settlements, or its employees, agents or representatives; or

(e) The insurer that issued the policy concerned in the information.

2. The immunity provided in subsection 1 does not extend to a statement made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a violation of NRS 688C.450, the plaintiff must plead specifically that the defendant acted with actual malice.

3. This section does not supplant or modify any other privilege or immunity at common law or under another statute enjoyed by a person described in subsection 1.

4. Except as otherwise provided in subsection 5, a person furnishing information as described in subsection 1 is entitled to an award of attorney's fees and costs if:

(a) The person is a defendant in a civil case arising out of activities performed in carrying out the provisions of this section;

(b) The cause of action in the case is for libel, slander or any other relevant tort;

(c) The person is the prevailing party in the case; and

(d) The person bringing the action is not substantially justified in doing so.

5. A person furnishing information relating to his own fraudulent acts as they relate to a viatical settlement is not entitled to an award pursuant to subsection 4.

Sec. 58. NRS 688C.510 is hereby amended to read as follows:

688C.510 1. In addition to the penalties and other means of enforcement provided under this chapter:

(a) If a person violates a provision of this chapter or of a regulation adopted under this chapter, the Commissioner may seek an injunction and apply for temporary and permanent orders he determines to be necessary to restrain the violator.

(b) A person who violates a provision of this chapter is subject to an administrative fine of not more than $1,000 for each violation.

(c) In addition to a criminal penalty imposed, the court shall order restitution to the person aggrieved by the violation.

2. A person aggrieved by a violation of this chapter may bring a civil action against the violator to recover the damages suffered.

3. A violation of this chapter attendant to the signing of an agreement to purchase a viatical settlement renders the agreement voidable and subject to rescission by the purchaser of viatical settlements, upon tender of the viaticated policy by the purchaser of viatical settlements to the provider of viatical settlements. Suit for rescission may be brought:

(a) In a court of competent jurisdiction;

(b) In the jurisdiction where the alleged violator resides;

(c) In the jurisdiction where the alleged violator has a principal place of business; or

(d) In the jurisdiction where the alleged violation occurred.

Sec. 58.5. NRS 689A.710 is hereby amended to read as follows:

689A.710 1. Except as otherwise provided in this section, an individual carrier or a producer shall not, directly or indirectly:

(a) Encourage or direct an eligible person to refrain from filing an application for coverage with an individual carrier because of the health status, claims experience, industry, occupation or geographic location of the eligible person.

(b) Encourage or direct an eligible person to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the eligible person.

2. The provisions of subsection 1 do not apply to information provided to an eligible person by an individual carrier or a producer relating to the established geographic service area or a provision for a restricted network of the individual carrier.

3. Except as otherwise provided in this subsection, an individual carrier shall not, directly or indirectly, enter into any contract, agreement or arrangement with a producer if the contract, agreement or arrangement provides for or results in a variation to the compensation paid to a producer for the sale of a health benefit plan because of the health status, claims experience, industry, occupation or geographic location of the individual at the time that the health benefit plan is issued to or renewed by the individual. The provisions of this subsection do not apply to any arrangement for compensation that provides payment to a producer on the basis of a percentage of premiums, except that the percentage may not vary because of the health status, claims experience, industry, occupation or geographic area of the individual. *Compensation paid pursuant to a contract, agreement or arrangement to a producer for the sale of a health benefit plan shall be based on the total premiums paid by an individual for the full extent of the coverage afforded by the health benefit plan.*

4. An individual carrier shall not terminate, fail to renew, or limit its contract or agreement of representation with a producer for any reason related to the health status, claims experience, industry, occupation or geographic location of an individual at the time that the health benefit plan is issued to or renewed by the individual placed by the producer with the individual carrier.

5. A denial by an individual carrier of an application for coverage from an eligible person must be in writing and must state the reason for the denial.

6. The Commissioner may adopt regulations that set forth additional standards to provide for the fair marketing and broad availability of health benefit plans to eligible persons in this state.

7. A violation of any provision of this section by an individual carrier may constitute an unfair trade practice for the purposes of chapter 686A of NRS.

8. The provisions of this section apply to a third-party administrator if the third-party administrator enters into a contract, agreement or other arrangement with an individual carrier to provide administrative, marketing or other services related to the offering of a health benefit plan to eligible persons in this state.

9. Nothing in this section interferes with the right and responsibility of a broker to advise and represent the best interests of an eligible person who is seeking health insurance coverage from an individual carrier.

Sec. 59. NRS 689B.026 is hereby amended to read as follows:

689B.026 1. Except as otherwise provided in this section, no policy of group health insurance may be delivered or issued for delivery in this state to a group which was formed for the purpose of purchasing one or more policies of group health insurance.

2. A policy of group health insurance may be delivered to a group described in subsection 1 if the Commissioner approves the issuance. The Commissioner shall not grant his approval unless he finds that:

(a) *All policy rates and forms are filed with and approved by the Division prior to marketing to a resident or employer in this State;*

(b) The benefits of the policy are reasonable in relation to the premiums charged; and

~~[(b)]~~ *(c)* The group to which the policy is issued is organized and operated in a fiscally sound manner.

3. ~~[Upon approval by the Commissioner, an insurer may exclude or limit the coverage in a policy issued pursuant to this section of any person as to whom evidence of insurability is not satisfactory to the insurer.]~~ *The Commissioner shall use the provisions of this chapter and chapter 689C of NRS to review insurance products to employers in this State. The Commissioner shall use the provisions of chapter 689A of NRS to review insurance products marketed to natural persons in this State.*

4. The provisions of this section apply to the offering in this state of a policy issued in another state.

Sec. 59.5. NRS 689B.030 is hereby amended to read as follows:

689B.030 Each group health insurance policy must contain in substance the following provisions:

1. A provision that, in the absence of fraud, all statements made by applicants or the policyholders or by an insured person are representations and not warranties, and that no statement made for the purpose of effecting insurance voids the insurance or reduces its benefits unless the statement is contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to him or his beneficiary.

2. A provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group a statement in summary form of the essential features of the insurance coverage of that employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one statement need be issued for each family.

3. A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

4. A provision for benefits for expense arising from care at home or health supportive services if the care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

5. ~~[A provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 689B.036.~~

~~6.]~~ A provision for benefits for expenses arising from hospice care.

Sec. 60. NRS 689B.080 is hereby amended to read as follows:

689B.080 Any insurer authorized to write health insurance in this state, including a nonprofit corporation for hospital, medical or dental services that has a certificate of authority issued pursuant to chapter 695B of NRS, may issue blanket accident and health insurance. No blanket policy, except as provided in subsection ~~[4]~~ *5* of NRS 687B.120, may be issued or delivered in this state unless a copy of the form thereof has been filed in accordance with NRS 687B.120. Every blanket policy must contain provisions which in the opinion of the Commissioner are not less favorable to the policyholder and the individual insured than the following:

1. A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured constitutes the entire contract between the parties, and that any statement made by the policyholder or by a person insured is in the absence of fraud a representation and not a warranty, and that no such statements may be used in defense to a claim under the policy, unless contained in a written application. The insured, his beneficiary or assignee has the right to make a written request to the insurer for a copy of an application, and the insurer shall, within 15 days after the receipt of a request at its home office or any branch office of the insurer, deliver or mail to the person making the request a copy of the application. If a copy is not so delivered or mailed, the insurer is precluded from introducing the application as evidence in any action based upon or involving any statements contained therein.

2. A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when the sickness or injury occurred. Failure to give notice within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to give notice and that notice was given as soon as was reasonably possible.

3. A provision that the insurer will furnish to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If the forms are not furnished before the expiration of 15 days after giving written notice of sickness or injury, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

4. A provision that in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of a claim for any other loss, written proof of the

loss must be furnished to the insurer within 90 days after the date of the loss. Failure to furnish such proof within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to furnish proof and that the proof was furnished as soon as was reasonably possible.

5. A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of written proof of loss, and that, subject to proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of that period will be paid immediately upon receipt of proof.

6. A provision that the insurer at its own expense has the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

7. A provision, if applicable, setting forth the provisions of NRS 689B.035.

8. A provision for benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

9. A provision that no action at law or in equity may be brought to recover under the policy before the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action may be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

Sec. 61. Chapter 689C of NRS is hereby amended by adding thereto the provisions set forth as sections 62, 63 and 64 of this act.

Sec. 62. *Each group health insurance policy must contain in substance a provision for benefits payable for expenses incurred for the treatment of abuse of alcohol or drugs, as provided in section 64 of this act.*

Sec. 63. *1. Notwithstanding any provisions of this title to the contrary, a policy of group health insurance delivered or issued for delivery in this State pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.*

2. The coverage required by this section:

(a) Must provide:

(1) Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and

(2) That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of hospitalization not used by the insured.

In no event is the policy required to provide coverage for more than 40 days of hospitalization as an inpatient per policy year.

(b) Is not required to provide benefits for psychosocial rehabilitation or care received as a custodial inpatient.

3. Any deductibles and copayments required to be paid for the coverage required by this section must not be greater than 150 percent of the out-of-pocket expenses required to be paid for medical and surgical benefits provided pursuant to the policy of group health insurance.

4. The provisions of this section do not apply to a policy of group health insurance if, at the end of the policy year, the premiums charged for that policy, or a standard grouping of policies, increase by more than 2 percent as a result of providing the coverage required by this section and the insurer obtains an exemption from the Commissioner pursuant to subsection 5.

5. To obtain the exemption required by subsection 4, an insurer must submit to the Commissioner a written request therefor that is signed by an actuary and sets forth the reasons and actuarial assumptions upon which the request is based. To determine whether an exemption may be granted, the Commissioner shall subtract from the amount of premiums charged during the policy year the amount of premiums charged during the period immediately preceding the policy year and the amount of any increase in the premiums charged that is attributable to factors that are unrelated to providing the coverage required by this section. The Commissioner shall verify the information within 30 days after receiving the request. The request shall be deemed approved if the Commissioner does not deny the request within that time.

6. The provisions of this section do not:

(a) Limit the provision of specialized services covered by Medicaid for persons with conditions relating to mental health or substance abuse.

(b) Supersede any provision of federal law, any federal or state policy relating to Medicaid, or the terms and conditions imposed on any Medicaid waiver granted to this State with respect to the provisions of services to persons with conditions relating to mental health or substance abuse.

7. A policy of group health insurance subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 3, 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, unless the policy is otherwise exempt from the provisions of this section pursuant to subsection 4.

8. As used in this section, "severe mental illness" means any of the following mental illnesses that are biologically based and for which diagnostic criteria are prescribed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association:

(a) Schizophrenia.

(b) Schizoaffective disorder.

(c) Bipolar disorder.

(d) Major depressive disorders.

(e) Panic disorder.

(f) Obsessive-compulsive disorder.

Sec. 64. *1. The benefits provided by a group policy for health insurance, as required by section 62 of this act, for the treatment of abuse of alcohol or drugs must consist of:*

(a) Treatment for withdrawal from the physiological effects of alcohol or drugs, with a minimum benefit of $1,500 per calendar year.

(b) Treatment for a patient admitted to a facility, with a minimum benefit of $9,000 per calendar year.

(c) Counseling for a person, group or family who is not admitted to a facility, with a minimum benefit of $2,500 per calendar year.

2. These benefits must be paid in the same manner as benefits for any other illness covered by a similar policy are paid.

3. The insured person is entitled to these benefits if treatment is received in any:

(a) Facility for the treatment of abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services.

(b) Hospital or other medical facility or facility for the dependent which is licensed by the Health Division of the Department of Health and Human Services, is accredited by the Joint Commission on Accreditation of Healthcare Organizations and provides a program for the treatment of abuse of alcohol or drugs as part of its accredited activities.

Sec. 64.5. NRS 689C.355 is hereby amended to read as follows:

689C.355 1. Except as otherwise provided in this section, a carrier or a producer shall not, directly or indirectly:

(a) Encourage or direct a small employer to refrain from filing an application for coverage with the carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(b) Encourage or direct a small employer to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

2. The provisions of subsection 1 do not apply to information provided to a small employer by a carrier or a producer relating to the established geographic service area or a provision for a restricted network of the carrier.

3. Except as otherwise provided in this subsection, a carrier shall not, directly or indirectly, enter into any contract, agreement or arrangement with a producer if the contract, agreement or arrangement provides for or results in a variation to the compensation that is paid to a producer for the sale of a health benefit plan because of the health status, claims experience, industry, occupation or geographic location of the small employer at the time that the health benefit plan is issued to or renewed by the small employer. The

provisions of this subsection do not apply to any arrangement for compensation that provides payment to a producer on the basis of percentage of premium, except that the percentage may not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer. *Compensation paid pursuant to a contract, agreement or arrangement to a producer for the sale of a health benefit plan shall be based on the total premiums paid by a small employer for the full extent of the coverage afforded by the health benefit plan.*

4. A carrier shall not terminate, fail to renew, or limit its contract or agreement of representation with a producer for any reason related to the health status, claims experience, occupation or geographic location of a small employer at the time that the health benefit plan is issued to or renewed by the small employer placed by the producer with the carrier.

5. A carrier or producer shall not induce or otherwise encourage a small employer to separate or otherwise exclude an employee or a dependent of the employee from health coverage or benefits provided in connection with the employment of the employee.

6. A violation of any provision of this section by a carrier may constitute an unfair trade practice for the purposes of chapter 686A of NRS.

7. The provisions of this section apply to a third-party administrator if the third-party administrator enters into a contract, agreement or other arrangement with a carrier to provide administrative, marketing or other services related to the offering of a health benefit plan to small employers in this state.

8. Nothing in this section interferes with the right and responsibility of a broker to advise and represent the best interests of a small employer who is seeking health insurance coverage from a small employer carrier.

Sec. 65. NRS 692A.100 is hereby amended to read as follows:

692A.100 1. The Commissioner shall provide by regulation for the licensing of title agents, their branch offices, direct writing title insurers and escrow officers.

2. Each title agent shall maintain his books of account and record and his vouchers pertaining to title insurance business in a manner which permits the Commissioner or his representative to ascertain readily whether the agent has complied with the provisions of this chapter.

3. A title agent or escrow officer may engage in the business of handling escrows, settlements and closings if he maintains a separate record of all receipts and disbursements of money held in escrow and does not commingle that money with his own.

4. *Except as otherwise provided in subsection 5:*

(a) For the purpose of determining its financial condition, fulfillment of its contractual obligations and compliance with law, the Commissioner or his representative or the Commissioner of Financial Institutions of the Department of Business and Industry or his representative when requested by the Commissioner of Insurance shall each year examine or cause to be

examined *in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive,* the affairs, transactions, agreements, assets, records and accounts, including the escrow accounts, of a title agent, title insurer or escrow officer.

~~[5.]~~ *(b)* A title agent or insurer may engage a certified public accountant to perform such an examination in lieu of the Commissioner. In such a case, the examination must be equivalent to the type of examination made by the Commissioner and the expense must be borne by the title agent or insurer being examined. *If a title agent or insurer engages a certified public accountant to conduct an examination, the title agent or insurer may do so only for a period of not more than 2 years.*

5. The Commissioner or his representative shall ~~[personally]~~ examine in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive, the affairs, transactions, agreements, assets, records and accounts, including escrow accounts, of a title agent, title insurer or escrow officer as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 3 years.

6. The Commissioner shall determine whether an examination performed by an accountant pursuant to *paragraph (b) of* subsection ~~[5]~~ *4* is equivalent to an examination conducted by him. The Commissioner may examine any area of the operation of a title agent or insurer if the Commissioner determines that the examination of that area is not equivalent to an examination conducted by him.

7. A person shall not become licensed to circumvent the provisions of this chapter or any other law of this state.

Sec. 66. ~~[NRS 694C.060 is hereby amended to read as follows:~~

~~694C.060 "Captive insurer" means [any pure captive insurer, association captive insurer, agency captive insurer, rental captive insurer and sponsored captive insurer licensed pursuant to this chapter. The term includes a pure captive insurer who, unless otherwise provided by the Commissioner, is a branch captive insurer with respect to operations in this State.] *an insurance company which is owned by:*~~

~~*1. A parent organization and whose exclusive purpose is to insure risks of:*~~

~~*(a) The parent organization; and*~~

~~*(b) Any affiliated companies of the parent organization; or*~~

~~*2. More than one insured and whose exclusive purpose is to insure risks of:*~~

~~*(a) The insureds and members, if any, of the insureds; and*~~

~~*(b) Any affiliates of:*~~

~~*(1) The insureds; or*~~

~~*(2) Members, if any, of the insureds.]*~~ *(Deleted by amendment.)*

Sec. 67. NRS 694C.180 is hereby amended to read as follows:

694C.180 1. Unless otherwise approved by the Commissioner, a pure captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer must be incorporated as a stock insurer.

2. An association captive insurer must be formed as a:

(a) Stock insurer;

(b) Mutual insurer; or

(c) Reciprocal insurer, except that its attorney-in-fact must be a corporation incorporated in this State.

3. A captive insurer shall have not less than three incorporators or organizers, at least one of whom must be a resident of this State.

4. Before the articles of incorporation of a captive insurer may be filed with the Secretary of State, the Commissioner must approve the articles of incorporation. In determining whether to grant that approval, the Commissioner shall consider:

(a) The character, reputation, financial standing and purposes of the incorporators or organizers;

(b) The character, reputation, financial responsibility, experience relating to insurance and business qualifications of the officers and directors of the captive insurer;

(c) The competence of any person who, pursuant to a contract with the captive insurer, will manage the affairs of the captive insurer;

(d) The competence, reputation and experience of the legal counsel of the captive insurer relating to the regulation of insurance;

(e) *The character, competence, reputation, expertise and experience of any other persons who manage, directly or indirectly, or provide professional services for the captive insurer;*

(f) If the captive insurer is a rental captive insurer, the competence, reputation and experience of the underwriter of the captive insurer;

~~[(f)]~~ *(g)* The business plan of the captive insurer; and

~~[(g)]~~ *(h)* Such other aspects of the captive insurer as the Commissioner deems advisable.

5. The capital stock of a captive insurer incorporated as a stock insurer must be issued at not less than par value.

6. At least one member of the board of directors of a captive insurer formed as a corporation, or one member of the subscribers advisory committee or the attorney-in-fact of a captive insurer formed as a reciprocal insurer, must be a resident of this State.

7. A captive insurer formed pursuant to the provisions of this chapter has the privileges of, and is subject to, the provisions of general corporation law set forth in chapter 78 of NRS and, if formed as a nonprofit corporation, the provisions set forth in chapter 82 of NRS, as well as the applicable provisions contained in this chapter. If the provisions of this chapter conflict with the general provisions in chapter 78 or 82 of NRS governing corporations, the provisions of this chapter control. The provisions of chapter 693A of NRS ~~[relating to mergers, consolidations, conversions, mutualizations and transfers of domicile to this State]~~ apply to determine the procedures to be followed by captive insurers in carrying out any of those transactions in accordance with this chapter.

8. The articles of association, articles of incorporation, charter or bylaws of a captive insurer formed as a corporation must require that a quorum of the board of directors consists of not less than one-third of the number of directors prescribed by the articles of association, articles of incorporation, charter or bylaws.

9. The agreement of the subscribers or other organizing document of a captive insurer formed as a reciprocal insurer must require that a quorum of its subscribers advisory committee consists of not less than one-third of the number of its members.

Sec. 68. ~~[NRS 694C.310 is hereby amended to read as follows:~~

~~694C.310 1. The board of directors of a captive insurer shall meet at least once each year in this State. The captive insurer shall:~~

~~(a) Maintain its principal place of business in this State; and~~

~~(b) Appoint a resident of this State as a registered agent to accept service of process and otherwise act on behalf of the captive insurer in this State. If the registered agent cannot be located with reasonable diligence for the purpose of serving a notice or demand on the captive insurer, the notice or demand may be served on the Secretary of State who shall be deemed to be the agent for the captive insurer.~~

~~2. A captive insurer shall not transact insurance in this State unless:~~

~~(a) The captive insurer has made adequate arrangements with a bank located in this State that is authorized pursuant to state or federal law to transfer money;~~

~~(b) If the captive insurer employs or has entered into a contract with a natural person or business organization to manage the affairs of the captive insurer, the natural person or business organization meets the standards of competence and experience satisfactory to the Commissioner;~~

~~(c) The captive insurer employs or has entered into a contract with a qualified and experienced certified public accountant who is approved by the Commissioner or a firm of certified public accountants that is nationally recognized;~~

~~(d) The captive insurer employs or has entered into a contract with qualified, experienced actuaries who are approved by the Commissioner to perform reviews and evaluations of the operations of the captive insurer; and~~

~~(e) The captive insurer employs or has entered into a contract with an attorney who is licensed to practice law in this State and who meets the standards of competence and experience in matters concerning the regulation of insurance in this State established by the Commissioner by regulation.~~

~~*3. A person who serves as a member of a board of directors of a captive insurer shall not, directly or indirectly, transact business with, or provide a service or product for a fee or other compensation to, the captive insurer.]*~~ *(Deleted by amendment.)*

Sec. 68.3. *NRS 695B.180 is hereby amended to read as follows:*

695B.180 A contract for hospital, medical or dental services must not be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

1. Unless the entire consideration therefor is expressed in the contract.

2. Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution.

3. If the contract purports to entitle more than one person to benefits or services, except for family contracts issued under NRS 695B.190, group contracts issued under NRS 695B.200, and blanket contracts issued under NRS 695B.220.

4. Unless every printed portion and any endorsement or attached papers are plainly printed in type of which the face is not smaller than 10 points.

5. Except for group contracts and blanket contracts issued under NRS 695B.220, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply.

6. Except for group contracts and blanket contracts issued under NRS 695B.230, unless, if any portion of the contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, that portion is printed in boldface type and with greater prominence than any other text of the contract.

7. If the contract contains any provisions purporting to make any portion of the charter, constitution or bylaws of a nonprofit corporation a part of the contract unless that portion is set forth in full in the contract.

8. ~~[Unless the contract, if it is a group contract, contains a provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 695B.194.~~

~~9.]~~ Unless the contract provides benefits for expenses incurred for hospice care.

~~[10.]~~ *9.* Unless the contract for service in a hospital contains in blackface type, not less than 10 points, the following provisions:

> This contract does not restrict or interfere with the right of any person entitled to service and care in a hospital to select the contracting hospital or to make a free choice of his attending physician, who must be the holder of a valid and unrevoked physician's license and a member of, or acceptable to, the attending staff and board of directors of the hospital in which the services are to be provided.

Sec. 68.7. NRS 695C.170 is hereby amended to read as follows:

695C.170 1. Every enrollee residing in this state is entitled to evidence of coverage under a health care plan. If the enrollee obtains coverage under a health care plan through an insurance policy, whether by option or otherwise,

the insurer shall issue the evidence of coverage. Otherwise, the health maintenance organization shall issue the evidence of coverage.

2. Evidence of coverage or amendment thereto must not be issued or delivered to any person in this state until a copy of the form of the evidence of coverage or amendment thereto has been filed with and approved by the Commissioner.

3. An evidence of coverage:

(a) Must not contain any provisions or statements which are unjust, unfair, inequitable, misleading, deceptive, which encourage misrepresentation or which are untrue, misleading or deceptive as defined in subsection 1 of NRS 695C.300; and

(b) Must contain a clear and complete statement, if a contract, or a reasonably complete summary if a certificate, of:

(1) The health care services and the insurance or other benefits, if any, to which the enrollee is entitled under the health care plan;

(2) Any limitations on the services, kind of services, benefits, or kind of benefits, to be provided, including any deductible or copayment feature;

(3) Where and in what manner the services may be obtained; *and*

(4) The total amount of payment for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay . ~~[; and~~

~~(5) A provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 695C.174.]~~

➥ Any subsequent change may be evidenced in a separate document issued to the enrollee.

4. A copy of the form of the evidence of coverage to be used in this state and any amendment thereto is subject to the requirements for filing and approval of subsection 2 unless it is subject to the jurisdiction of the Commissioner under the laws governing health insurance, in which event the provisions for filing and approval of those laws apply. To the extent that such provisions do not apply to the requirements in subsection 3, such provisions are amended to incorporate the requirements of subsection 3 in approving or disapproving an evidence of coverage required by subsection 2.

Sec. 69. NRS 695E.130 is hereby amended to read as follows:

695E.130 1. Except as otherwise provided in chapter 685A of NRS, a purchasing group shall not purchase insurance from an unauthorized insurer or a risk retention group that is not chartered or registered in this state.

2. A purchasing group is exempt from any law of this state that relates to the formation or prohibition of groups for the purchase of insurance, and any law that would discriminate against a purchasing group or its members.

3. An insurer is exempt from any law of this state that prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experiences not afforded to other persons with respect to rates, policy forms, coverages or other matters.

4. ~~[A purchasing group and its insurer are exempt from any law of this state which requires that an insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent residing in this state.~~

~~5.]~~ A purchasing group that obtains liability insurance from a surplus lines insurer or a risk retention group shall inform each of the members of the purchasing group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

~~[6.]~~ *5.* No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, but the coverage may provide for a deductible or self-insured retention applicable to individual members of the group.

~~[7.]~~ *6.* Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

Sec. 70. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine *in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive,* the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 3 years.

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

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

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

Sec. 71. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of $500.

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts

or other agreements between any person who is responsible for conducting the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration annually before ~~[the registration expires.]~~ *March 1*. Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of $500; and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

Sec. 71.5. *NRS 21.090 is hereby amended to read as follows:*

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the

judgment debtor for the support of himself and his family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance. ~~[, if the annual premium paid does not exceed $15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the $15,000 bears to the whole annual premium paid.]~~

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by him.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 72. Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 73, 74 and 75 of this act.

Sec. 73. *"Provider of viatical settlements" has the meaning ascribed to it in NRS 688C.080.*

Sec. 74. *"Viatical settlement investment" means the contractual right to receive a specified portion of the death benefit or ownership of a life insurance policy or certificate in exchange for consideration that is less than the dollar amount of the expected death benefit of the life insurance policy or certificate. The term does not include:*

1. A transaction between a viator and a provider of viatical settlements;

2. A transfer of ownership or beneficial interest in a life insurance policy from a provider of viatical settlements to another provider of viatical settlements, or to a legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;

3. The bona fide assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union or other licensed lending institution as collateral for a loan; or

4. The exercise of accelerated benefits pursuant to the terms of a life insurance policy issued in accordance with title 57 of NRS.

Sec. 75. *"Viator" has the meaning ascribed to it in NRS 688C.150, except that for the purposes of this chapter, a viator need not be a resident of this State.*

Sec. 76. NRS 90.211 is hereby amended to read as follows:

90.211 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 90.215 to 90.307, inclusive, *and sections 73, 74 and 75 of this act* have the meanings ascribed to them in those sections.

Sec. 77. NRS 90.295 is hereby amended to read as follows:

90.295 "Security" means a note, stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in a profit-sharing agreement, a limited partnership interest, an interest in a limited-liability company, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, *viatical settlement investment*, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in an oil, gas or other mineral lease or in payments out of production of such a lease, right or royalty, a put, call, straddle or option on a security, certificate of deposit or group or index of securities including any interest therein or based on the value of any of the foregoing, or, in general, any interest or instrument commonly known as a security or any certificate of interest or participation in, temporary or interim certificate for, receipt for, whole or partial guarantee of or warrant or right to subscribe to or purchase any of the foregoing. The term does not include:

1. An insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period; or

2. An interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974.

Sec. 77.5. *NRS 287.010 is hereby amended to read as follows:*

287.010 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:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 689B.030 to 689B.050, inclusive, 689B.287 and 689B.575 apply to coverage provided pursuant to this paragraph . ~~[, except that the provisions of NRS 689B.0359 do not apply to such coverage.]~~

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(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.

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

6. As used in this section, "legal services organization" means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 78. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an employee leasing company which complies with the provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company.

2. ~~[If an]~~ *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 ~~*[responsible]*~~ 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.]~~ ~~*[workers' compensation insurance.]*~~

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 ~~[.]~~ *or pursuant to title 57 of NRS.*

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

➥ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 79. NRS 688C.120 *,* ~~[and]~~ 688C.340 *, 689B.0359, 689B.036, 695B.1938, 695B.194, 695C.1738 and 695C.174* are hereby repealed.

Sec. 80. 1. This section and sections 5 and 7 of this act become effective upon passage and approval.

2. Sections 1 to ~~[4,]~~ *4.5,* inclusive, 6, 10 to 60, inclusive, and ~~[65]~~ *64.5* to 79, inclusive, of this act become effective on October 1, 2009.

3. Sections 8 and 61 to 64, inclusive, of this act become effective on October 3, 2009.

4. Section 9 of this act becomes effective on October 9, 2009.

~~[TEXT]~~ *LEADLINES* OF REPEALED SECTIONS

688C.120 "Trust for a related provider" defined. ~~["Trust for a related provider" means a trust established by a licensed provider of viatical settlements solely to hold the ownership of or beneficial interests in purchased policies in connection with financing.]~~

688C.340 Trust for related provider: Required agreement between trustee and provider. ~~[The trustee of a trust for a related provider must agree in writing with the provider of viatical settlements that the provider is responsible for ensuring compliance with all statutory and regulatory requirements and that the trustee will make all records and files related to viatical settlements available to the Commissioner as if those records and files were maintained directly by the provider.]~~

689B.0359 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

689B.036 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

695B.1938 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

695B.194 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

695C.1738 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

695C.174 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

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 certain language in existing statute relating to insurance-producers' residency requirements. The amendment also makes changes to sections concerning life insurance and annuities. It modifies provisions related to brokers who offer viatical settlements and deletes certain references in the bill to requirements for captive insurers. Finally, the amendment makes technical changes to provisions mandating coverage for conditions related to severe mental illness and drug and alcohol abuse.

Amendment adopted.

The following amendment was proposed by the Committee on Finance:

Amendment No. 524.

"SUMMARY—Revises provisions relating to insurance. (BDR 57-1131)"

"AN ACT relating to insurance; *creating the Fund for Insurance Administration and Enforcement; providing for new fees related to the Nevada Insurance Code;* revising provisions relating to the Division of Insurance of the Department of Business and Industry, insurers, contracts or policies of insurance, viatical settlements, health insurance and employee leasing companies; *revising provisions related to the Federal Deposit Insurance Corporation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 0.2-0.6 of this bill create: (1) the Fund for Insurance Administration and Enforcement as an enterprise fund to carry out the provisions of the Nevada Insurance Code; and (2) new fees to provide money for the Fund.

Section 3 of this bill eliminates certain restrictions on out-of-state insurers. (NRS 680A.300)

Sections 7-9 of this bill require certain insurers to comply with newly enacted federal acts.

Section 10 of this bill authorizes insurers to include certain statements in policies of insurance.

Sections 12-58 and 72-77 of this bill revise provisions relating to viatical settlements.

Sections 61-64 of this bill make mandatory the provision of coverage for certain conditions by group health insurance for small employers.

Sections 59, 65 and 70 of this bill revise provisions relating to reviews and examinations by the Commissioner of Insurance.

Section 78 of this bill revises provisions relating to employee leasing companies.

Sections 78.3 and 78.7 of this bill revise provisions related to the Federal Deposit Insurance Corporation.

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

Sec. 0.2. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 0.4 and 0.6 of this act.

Sec. 0.4. *1. The Fund for Insurance Administration and Enforcement is hereby created in the State Treasury as an enterprise fund.*

2. The Fund must be used solely to carry out the provisions of this Code.

3. The State Treasurer shall invest the money in the Fund in the same manner and in the same securities in which he is authorized to invest state general funds which are in his custody. Income realized from the investment of the assets of the Fund must be credited to the Fund.

Sec. 0.6. *1. In addition to any other fee or charge provided for pursuant to this Code, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.*

2. A fee required by this section must be:

(a) Paid on a date to be determined by the Commissioner;

(b) Prorated by the Commissioner as appropriate; and

(c) Deposited in the Fund for Insurance Administration and Enforcement created by section 0.4 of this act.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons, as regulated by this Code, to the Commissioner:

(a) Insurers not otherwise provided for in this subsection:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(b) Reinsurers, as defined in NRS 681A.370, and accredited reinsurers, as provided for in NRS 681A.160:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(c) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee *$60*

(2) Triennial fee *$60*

(d) Eligible surplus line insurers, as provided for in NRS 685A.070:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(e) Companies, as defined in NRS 686A.330:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(f) Rate service organizations, as defined in NRS 686B.020:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(g) Providers, as defined in NRS 690C.070:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(h) Fraternal benefit societies, as defined in NRS 695A.010:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(i) Nonprofit corporations for medical services subject to the provisions of chapter 695B of NRS:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(j) Health maintenance organizations, as defined in NRS 695C.030:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(k) Organizations for dental care, as defined in NRS 695D.060:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(l) Purchasing groups, as defined in NRS 695E.100:

(1) Initial fee *$250*

(2) Annual fee *$250*

(m) Prepaid limited health service organizations, as defined in NRS 695F.050:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(n) Medical discount plans, as defined in NRS 695H.050:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(o) Motor clubs, as defined in NRS 696A.050:

(1) Initial fee *$1,300*

(2) Annual fee *$1,300*

(p) Risk retention groups, as defined in NRS 695E.110:

(1) Initial fee *$250*

(2) Annual fee *$250*

(q) Captive insurers, as defined in NRS 694C.060:

(1) Initial fee *$250*

(2) Annual fee *$250*

(r) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee *$60*

(2) Triennial fee *$60*

(s) Bail agents, as defined in NRS 697.040:

(1) Initial fee *$60*

(2) Triennial fee *$60*

(t) Bail enforcement agents, as defined in NRS 697.055:

(1) Initial fee *$60*

(2) Triennial fee *$60*

(u) General agents, as defined in NRS 697.070:

(1) Initial fee *$60*

(2) Triennial fee *$60*

(v) Bail solicitors, as defined in NRS 697.060:

(1) Initial fee *$60*

(2) Triennial fee *$60*

(w) Brokers, as defined in NRS 685A.030:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(x) Managing general agents, as defined in NRS 683A.060:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(y) Independent and public adjusters, as defined in NRS 684A.030:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(z) Associate adjusters, as defined in NRS 684A.030:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(aa) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(bb) Administrators, as defined in NRS 683A.025:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(cc) Title agents, as defined in NRS 692A.060:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(dd) Escrow officers, as defined in NRS 692A.028:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(ee) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(ff) Insurance agents for societies, as provided for in NRS 695A.330:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(gg) Intermediaries, as defined in NRS 681A.330:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(hh) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(ii) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:
(1) Initial fee *$60*
(2) Triennial fee *$60*
(jj) Providers of viatical settlements, as defined in NRS 688C.080:
(1) Initial fee *$60*

(2) Annual fee *$60*

(kk) Brokers of viatical settlements, as defined in NRS 688C.030:

(1) Initial fee *$60*

(2) Annual fee *$60*

(ll) Insurance consultants, as defined in NRS 683C.010:

(1) Initial fee *$60*

(2) Triennial fee *$60*

(mm) Club agents, as defined in NRS 696A.040:

(1) Initial fee *$60*

(2) Triennial fee *$60*

(nn) External review organizations, as provided for in NRS 683A.371:

(1) Initial fee *$60*

(2) Annual fee *$60*

(oo) Agents who perform utilization reviews, as defined in NRS 683A.376:

(1) Initial fee *$60*

(2) Annual fee *$60*

Sec. 0.8. NRS 679B.380 is hereby amended to read as follows:

679B.380 1. Except as otherwise expressly provided in this Code, funds with which to carry out the administration and enforcement by the Commissioner of this Code shall be provided by ~~[legislative appropriation from the General Fund]~~ *the Fund for Insurance Administration and Enforcement created by section 0.4 of this act* and shall be paid out on claims as other claims against the State are paid.

2. No such claim shall be paid unless approved by the commissioner.

Section 1. NRS 679B.410 is hereby amended to read as follows:

679B.410 The Commissioner shall:

1. Determine the relationship of premiums and related income of insurers to costs and expenses of insurers, provide this information to the Legislature and make this information available to the general public.

2. Respond to requests by governmental agencies of this state and by the Legislature for special studies and analysis of information collected pursuant to NRS 679B.400 to 679B.460, inclusive.

3. Report to each regular session of the Legislature concerning his duties and findings pursuant to this section no later than *the first Monday in* February . ~~[1.]~~

Sec. 2. NRS 680A.265 is hereby amended to read as follows:

680A.265 1. Except as otherwise provided in subsection 5, every:

(a) Domestic insurer;

(b) Fraternal benefit society authorized to do business in this State pursuant to chapter 695A of NRS; and

(c) Corporation subject to the provisions of chapter 695B of NRS,

➥ shall file with the Commissioner, on or before June 1 of each year, a financial statement as of December 31 of the preceding calendar year that is certified by a certified public accountant who is not an employee of the

insurer. The Commissioner may request a financial statement from a foreign or alien insurer.

2. If a certified public accountant finds any violation of the laws of this State during any audit he conducts pursuant to subsection 1, he shall, if the Commissioner has adopted regulations pursuant to subsection 6 pertaining to the reporting of a violation found during an audit, report the violation in accordance with those regulations.

3. An insurer who does not file a report pursuant to subsection 1 on or before June 1 of each year is subject to the penalty imposed pursuant to NRS 680A.280.

4. A statement filed with the Commissioner must not be a consolidated report with any other subsidiary, affiliate or parent company.

5. The provisions of this section do not apply to a domestic insurer who:

(a) Is not licensed or authorized to do business in any state other than Nevada; ~~[or]~~ *and*

(b) Is exempted from the requirements of this section by order of the Commissioner for good cause shown.

6. The Commissioner may adopt reasonable regulations relating to annual audited financial reports to administer the provisions of this section.

Sec. 3. NRS 680A.300 is hereby amended to read as follows:

680A.300 1. Except as provided in NRS 680A.310, no authorized insurer may make, write, place, renew or cause to be made, placed or renewed, any policy or duplicate policy *, endorsement or contract* of insurance of any kind upon persons, property or risks resident, located or to be performed in this State, except through its duly appointed and licensed agents , ~~[resident in this State,]~~ any one of whom shall countersign the policy ~~[.]~~ *, endorsement or contract.*

2. Where two or more insurers jointly issue a single policy, the policy may be countersigned, on behalf of all insurers appearing thereon, by a *duly appointed and* licensed agent ~~[resident in this State]~~ of any one insurer.

3. In any case where it is necessary to execute an emergency bond and a commissioned agent authorized to execute the bond is not present, a manager or other employee of the insurer having authority under a power of attorney may execute the bond in order to produce a valid contract between the insurer and the obligee. The bond must subsequently be countersigned by a ~~[resident]~~ commissioned agent ~~[,]~~ who *is authorized to execute the bond. The commissioned agent who executes the bond* shall make and retain an adequate office record of the transaction.

4. ~~[Nothing contained in this section prevents exercise of the free and unlimited right to negotiate contracts by licensed nonresident agents or brokers outside this State, if the policies, endorsements or evidence of those contracts covering properties or insurable interests in this State are countersigned by a registered agent of this State. Every such policy or contract must be countersigned by a registered agent.~~

~~5. On business produced by a licensed nonresident agent or broker, which is countersigned by a resident commissioned agent of this State, there must be a division of the usual commission between the licensed nonresident producing agent or broker and the resident countersigning commissioned agent which must produce for the latter a commission of at least 5 percent of the premium. No commission or fee is required as to policies with an annual premium of $250 or less. The insurer issuing any policy or bond is responsible for payment to the countersigning agent of the fee or commission for the countersignature. Where the licensed nonresident agent or broker or the insurer assuming the risk desires the resident commissioned agent to render additional services during the life of a policy, the compensation to the countersigning commissioned registered agent is a matter of contract between the parties in interest.~~

~~6.]~~ An insurer may use an endorsement to the policy for the sole purpose of countersigning the policy, as required in this section, only if:

(a) The endorsement is attached to the policy to which it applies; and

(b) The policy insures persons or property in this State and one or more other states.

Sec. 3.5. *NRS 680B.060 is hereby amended to read as follows:*

680B.060 1. The taxes imposed under NRS 680B.027 must be collected by the Department of Taxation and promptly deposited with the State Treasurer for credit to the State General Fund.

2. If the tax is not paid by the insurer on or before the date required for payment, the tax then becomes delinquent, and payment thereof may be enforced by court action instituted on behalf of the State by the Attorney General. The Attorney General may employ additional counsel in the city where the home office of the insurer is located, subject to the approval of compensation for such services by the State Board of Examiners. The administrative and substantive enforcement provisions of chapters 360 and 372 of NRS apply to the enforcement of the taxes imposed under NRS 680B.027.

3. Upon the tax becoming delinquent, the Executive Director of the Department of Taxation shall notify the Commissioner, who shall suspend or revoke the insurer's certificate of authority pursuant to NRS 680A.190.

4. If a dispute arises between an insurer and the State as to the amount of tax, if any, payable, the insurer is entitled to pay under protest the tax in the amount assessed by the Department of Taxation, without waiving or otherwise affecting any right of the insurer to recover any amount determined, through appropriate legal action taken by the insurer against the Department of Taxation, to have been in excess of the amount of tax lawfully payable.

5. ~~[All]~~ *Except as otherwise provided in section 0.6 of this act, all* taxes, fees, licenses, fines and charges collected under this Code, including the general premium tax provided for under NRS 680B.027 and as increased in

any instances pursuant to NRS 680A.330, must be promptly deposited with the State Treasurer for credit to the State General Fund.

Sec. 4. NRS 685B.120 is hereby amended to read as follows:

685B.120 1. ~~[Any]~~ *Except as otherwise provided in subsection 2, a* person who provides coverage in this State for the cost of:

(a) Medical care;
(b) Surgery;
(c) Chiropractic;
(d) Physical therapy;
(e) Speech pathology;
(f) Audiology;
(g) Professional care of mental health;
(h) Dental care;
(i) Hospital care;
(j) Ophthalmic care; or
(k) Ambulance services,

➥ whether the coverage provides for direct payment, reimbursement or any other method of payment, is subject to regulation by the Division and to the provisions of this Code . ~~[unless he]~~

2. A person who provides coverage pursuant to subsection 1 is not subject to regulation by the Division and to the provisions of this Code if:

(a) He shows that while providing such coverage he is subject to regulation by the Federal Government ~~[.~~

~~2.]~~ *pursuant to the provisions of NRS 685B.130; and*

(b) Regulation by the Division and the provisions of this Code conflict with the provisions of 29 U.S.C. § 1144(b)(6)(A).

3. A nonprofit corporation that provides prepaid ambulance services is not subject to regulation by the Division or to the provisions of this Code if the corporation presents evidence satisfactory to the Commissioner that the corporation is subject to regulation by a political subdivision of this State pursuant to an exclusive franchise which limits the number of times any such prepaid services may be used to a defined number that are medically necessary.

Sec. 5. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 10, inclusive, of this act.

Sec. 6. *An insurer or other organization providing health coverage pursuant to chapter 689B, 689C, 695A, 695B or 695C of NRS is not subrogated to the rights of the insured until after the insured is reimbursed in full for the costs of covered health care services paid by the insured.*

Sec. 7. *An insurer or other organization providing health coverage pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C, 695D or 695F of NRS shall comply with the provisions of the Genetic Information Nondiscrimination Act of 2008, Public Law No. 110-233, and any federal regulations issued pursuant thereto.*

Sec. 8. *An insurer or other organization providing health coverage pursuant to chapter 689B, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law No. 110-343, Division C, Title V, Subtitle B, and any federal regulations issued pursuant thereto.*

Sec. 9. *An insurer or other organization providing health coverage pursuant to chapter 689B, 689C, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of Michelle's Law, Public Law No. 110-381, and any federal regulations issued pursuant thereto.*

Sec. 10. *1. An insurer may include in a policy of group life, dental or health insurance:*

(a) An informational statement that informs an employer of the notice requirements established pursuant to subsection 2 of NRS 608.1577; and

(b) Any other provisions not inconsistent with the laws of this State and regulations adopted pursuant thereto.

2. Nothing in subsection 1 shall be construed to grant an insurer the authority to waive the notice requirements established pursuant to subsection 2 of NRS 608.1577. The failure of an insurer to include in a policy of group life, dental or health insurance an informational statement described in paragraph (a) of subsection 1 shall not be construed as a waiver of the notice requirements established pursuant to subsection 2 of NRS 608.1577.

Sec. 11. NRS 687B.120 is hereby amended to read as follows:

687B.120 1. *Except as otherwise provided in subsection 2:*

(a) No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~[This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.]~~

(b) As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at his request.

2. *As to group insurance policies to be issued to a group which was formed for the purpose of purchasing one or more policies of group insurance pursuant to NRS 688B.030 or 689B.026, no policy of group insurance may be marketed to a resident or employer of this State unless the policy and any form of certificate to be issued pursuant to the policy has been filed with and approved by the Commissioner.*

3. Every ~~[such]~~ filing *made pursuant to the provisions of subsection 1 or 2* must be made not less than 45 days in advance of any ~~[such]~~ delivery ~~[.]~~ *pursuant to subsection 1 or any marketing pursuant to subsection 2.* At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

~~[3.]~~ *4.* Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

~~[4.]~~ *5.* The Commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof specified in the order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

~~[5.]~~ *6.* Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 12. Chapter 688C of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 28, inclusive, of this act.

Sec. 13. *"Rescission period" means the shorter period of 60 days after the date on which a viatical settlement is signed by all parties thereto or 30 days after the viator receives the proceeds from that viatical settlement.*

Sec. 14. *"Viatical settlement investment" has the meaning ascribed to it in section 74 of this act.*

Sec. 15. *"Viatical settlement investment agent" or "investment agent of viatical settlements" means a person who is appointed by or contracts with a licensed provider of viatical settlements to solicit or arrange for the funding*

for the purchase of a viatical settlement by a purchaser of viatical settlements on behalf of the provider of viatical settlements.

Sec. 16. *"Viatical settlement purchase agreement" means a contract or agreement to which the viator is not a party, and which is entered into by a purchaser of viatical settlements to purchase a life insurance policy or an interest in a life insurance policy for the purpose of deriving an economic benefit.*

Sec. 17. *A financial planner, as defined in subsection 3 of NRS 628A.010, who, on behalf of a viator and for a fee, commission or other valuable consideration not paid by a provider or purchaser of viatical settlements, offers or attempts to negotiate a viatical settlement between the viator and one or more providers or brokers of viatical settlements must be licensed as an insurance consultant pursuant to NRS 683C.020.*

Sec. 18. *1. Persons engaged in the business of viatical settlements are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:*

(a) NRS 679B.230 to 679B.300, inclusive, concerning examinations of insurers.

(b) NRS 679B.310 to 679B.370, inclusive, concerning hearings regarding insurers and employees of insurers.

(c) Chapter 680A of NRS.

(d) Chapter 683A of NRS.

(e) NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.

2. Nothing in this chapter or elsewhere in this title preempts or otherwise limits the provisions of chapter 90 of NRS, or of any rules, regulations or orders issued by or through the Administrator of the Securities Division of the Office of the Secretary of State or the Administrator's designee acting pursuant to the authority granted by chapter 90 of NRS.

3. Compliance with the provisions of this chapter does not constitute compliance with any applicable provisions of chapter 90 of NRS or with any rule, regulation or order adopted or issued thereunder.

Sec. 19. *A viatical settlement investment agent is deemed to represent the provider of viatical settlements who appointed or contracted with the viatical settlement investment agent.*

Sec. 20. *A viatical settlement investment agent shall not:*

1. Have knowledge of the identity of; or

2. Communicate either directly or indirectly with,

➥ *a viator or an insured whose policy of insurance is the object of a viatical settlement for which the viatical settlement investment agent solicits or arranges for the funding for the purchase.*

Sec. 21. *1. Before the date on which an agreement to purchase a viatical settlement is signed by all parties thereto, the provider of viatical settlements or a viatical settlement investment agent who contracted with or*

was appointed by the provider of viatical settlements shall provide the purchaser of viatical settlements with the following disclosures:

(a) A statement that the purchaser will receive no return on the viatical settlement investment, including dividends and interest, until the insured has died and a claim for a death benefit is made pursuant to the viaticated policy.

(b) A statement that the actual annual rate of return on a viatical settlement is dependent upon an accurate projection of the life expectancy of the insured and that a guaranteed annual rate of return is not determinable.

(c) A statement that a viaticated policy is not a liquid asset.

(d) A statement that the purchaser may lose all, or a substantial portion, of the benefits of the viaticated policy if the insurer who issued the policy goes out of business during the term of the viatical settlement investment.

(e) A statement that the purchaser is responsible for the payment of premiums and other costs related to the viaticated policy and that those payments may reduce the purchaser's return on the viatical settlement investment.

(f) A statement as to whether the purchaser is entitled to a refund of all or a part of his payment pursuant to the viatical settlement investment if the viaticated policy is later determined to be void.

(g) A statement that a group insurance policy may contain provisions:

(1) Limiting or negating rights of conversion if the policy is terminated and replaced by another policy; and

(2) Requiring the payment of additional premiums if the policy is converted. If the group insurance policy requires a payment of additional premiums if the policy is converted, a disclosure statement pursuant to this subparagraph must also identify the name of the party responsible for the payment of the additional premiums.

(h) The cost of the premium to be paid by the purchaser.

(i) The costs of any fees or other expenses to be paid by the purchaser.

(j) The name, business address and telephone number of the designated independent escrow agent.

(k) The relationship between the designated independent escrow agent and the broker of viatical settlements.

(l) The risks associated with contestability of the policy, including, without limitation, the risk that the purchaser will have no claim or a limited claim to death benefits if the insurer rescinds the policy during the period of contestability.

(m) A statement as to whether the purchaser will be the owner of the policy in addition to being the beneficiary and, if the purchaser is the beneficiary only and not also the owner, the additional risks associated with that status, including, without limitation, the risk that the beneficiary may be changed or the premium may not be paid.

(n) A description of the experience and qualifications of the person who projects the life expectancy of the insured, the information on which the

projection is based and the relationship, if any, between the person who makes the projection and the provider of viatical settlements.

2. The provider of viatical settlements or the viatical settlement investment agent shall also provide to the purchaser of viatical settlements a brochure that describes the process of investment in viatical settlements. The form of the brochure created by the National Association of Insurance Commissioners must be used unless an alternate is developed by the Commissioner.

Sec. 22. *Not later than the date of assignment, transfer or sale of all or a portion of a viaticated policy, a provider of viatical settlements or a viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements shall provide a purchaser of a viatical settlement with the following disclosures:*

1. All certifications relating to the life expectancy of the viator that were obtained by the provider of viatical settlements in the process of determining the price that was paid to the viator.

2. A statement as to whether premium payments or money for the payment of other costs related to the policy has been deposited in an escrow account.

3. If payments or money has been deposited in an escrow account, a statement of the date that the escrow account will be depleted and as to whether the purchaser of viatical settlements will be responsible for payment of premiums thereafter and, if so, a statement of the amount of the premiums.

4. A statement as to whether premiums or other costs related to the policy have been waived.

5. If premiums or other costs have been waived, a statement as to whether the purchaser will be responsible for payment of the premiums if the insurer that issued the policy terminates the waiver after the purchase, and a statement of the amount of the premiums.

6. The type of policy offered or sold, any additional benefits included with the policy and the status of the policy.

7. If the policy is term insurance, a statement of the additional risks associated with term insurance, including, without limitation, the purchaser's responsibility for additional premiums if the viator renews the policy at the end of the term which is effective at the time of the purchase.

8. The period of contestability, if any, remaining under the policy.

9. A statement of rights held by the insurer that could negatively affect or extinguish the rights of the purchaser of viatical settlements and the conditions under which the rights can be exercised.

Sec. 23. *Disclosures made pursuant to sections 21 and 22 of this act must be printed conspicuously in at least 12-point type in any contract or in a separate document signed by the purchaser of viatical settlements and:*

1. The provider of viatical settlements; or

2. The viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements.

Sec. 24. *If a broker or provider of viatical settlements is a party to a plan, a transaction or a series of transactions to originate, renew or continue a policy of life insurance for the purpose of engaging in the business of viatical settlements before or during the first 5 years after the issuance of the policy, the broker or provider shall fully disclose the plan, transaction or transactions to the issuer of the policy.*

Sec. 25. *With respect to a viatical settlement or a policy of insurance:*

1. A broker of viatical settlements shall not knowingly solicit an offer from, effectuate a viatical settlement with or make a sale to any provider, purchaser or investment agent of viatical settlements.

2. A provider of viatical settlements shall not knowingly enter into a viatical settlement with a viator if, in connection with that viatical settlement, anything of value will be paid to a broker of viatical settlements who controls, is controlled by or is under common control with a provider, purchaser or investment agent of viatical settlements who is involved in the viatical settlement.

Sec. 26. *An insurer shall not, as a condition of responding to a request for verification of coverage or of effecting the transfer of a policy pursuant to a viatical settlement, require that the viator, insured, provider or broker of viatical settlements sign a form or disclosure that has not been expressly approved by the Commissioner for use in connection with a viatical settlement in this State.*

Sec. 27. *The Commissioner may place a broker or investment agent of viatical settlements on probation if the Commissioner finds that the broker or investment agent of viatical settlements has acted in bad faith with regard to a viator.*

Sec. 28. *1. If the Commissioner finds that a producer of life insurance has violated a provision of this chapter or other applicable provisions or has acted in bad faith with regard to a viator, the Commissioner may:*

(a) Refuse to:

(1) Issue a certificate of authority to the producer of life insurance; or

(2) Renew a certificate of authority of the producer of life insurance;

(b) Suspend the producer of life insurance for a period not to exceed 12 months; or

(c) Place the producer of life insurance on probation.

2. If the Commissioner takes action as described in paragraphs (a), (b) and (c) of subsection 1, the producer of life insurance may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.

Sec. 29. NRS 688C.010 is hereby amended to read as follows:

688C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 688C.020 to 688C.150, inclusive, *and sections 13 to 16, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 30. NRS 688C.020 is hereby amended to read as follows:

688C.020 "Advertising" means a written, electronic or printed communication or a communication by recorded telephone message, radio, television, the Internet or a similar medium of communication, including a film strip, motion picture or videotape, published, communicated or otherwise placed before the public to create an interest in, or induce a person to *purchase or* sell a policy of life insurance pursuant to, a viatical settlement.

Sec. 31. NRS 688C.030 is hereby amended to read as follows:

688C.030 "Broker of viatical settlements" means a person who on behalf of a viator and for a fee, commission or other valuable consideration offers or attempts to negotiate a viatical settlement between the viator and one or more providers *or brokers* of viatical settlements. The term does not include an attorney at law, certified public accountant or financial planner accredited by a nationally recognized accrediting agency who is retained by the viator and whose compensation is not paid by a provider or purchaser of viatical settlements.

Sec. 32. NRS 688C.080 is hereby amended to read as follows:

688C.080 "Provider of viatical settlements" means a person other than a viator who enters into or effectuates a viatical settlement. The term does not include:

1. A bank, savings and loan association, thrift company, credit union or other licensed lender that takes an assignment of a policy as security for a loan;

2. The issuer of a policy that provides accelerated benefits pursuant to the contract;

3. An authorized or eligible insurer that provides stop-loss coverage to a provider or purchaser of viatical settlements;

4. A natural person who enters into no more than one agreement in a calendar year for the transfer of policies for a value less than the expected death benefit;

5. A financing agent;

6. A special organization; *or*

7. ~~[A trust for a related provider; or~~

~~8.]~~ A purchaser of viatical settlements.

Sec. 33. NRS 688C.090 is hereby amended to read as follows:

688C.090 "Purchaser of viatical settlements" means a person who gives a sum of money as consideration for a policy or an interest in the death benefits of a policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. The term does not include:

1. A person licensed pursuant to this chapter;

2. An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;

3. A financing agent; *or*

4. A special organization . ~~[; or~~

~~5. A trust for a related provider.]~~

Sec. 34. NRS 688C.130 is hereby amended to read as follows:

688C.130 "Viatical settlement" means a written agreement *between a viator and a provider of viatical settlements or an affiliate thereof* for the payment of money, or anything else of value, which is less than the expected death benefit of a policy, in exchange for the viator's assignment, sale, transfer or devise of the death benefit or ownership of any portion of the policy. The term includes ~~[:~~

~~1. An agreement for a loan or other financing secured primarily by a policy, other than a loan by an insurer pursuant to or secured by the cash value of a policy; and~~

~~2. An]~~ *an* agreement to transfer ownership or change the beneficiary, in the future, regardless of the date of payment to the viator.

Sec. 35. NRS 688C.150 is hereby amended to read as follows:

688C.150 *1.* "Viator" means the owner of a policy or the holder of a certificate of insurance under a policy of group insurance ~~[.]~~ *who resides in this State and who enters or seeks to enter into a viatical settlement.* The term is not limited to an owner who is terminally or chronically ill except where that limitation is expressly provided.

2. The term does not include:

(a) A producer of life insurance acting as a broker of viatical settlements pursuant to this chapter;

(b) A qualified institutional buyer as defined in Rule 144A of the federal Securities Act of 1933, 15 U.S.C. §§ 77a et seq., as amended;

(c) A financing agent; or

(d) A special organization.

Sec. 36. NRS 688C.160 is hereby amended to read as follows:

688C.160 If there is more than one viator *or purchaser of viatical settlements* with respect to a single policy and they are residents of different states, *one of whom resides in this State and enters or seeks to enter into a viatical settlement or an agreement to purchase a viatical settlement,* the legal effect of ~~[a]~~ *the* viatical settlement *or agreement to purchase a viatical settlement, as applicable,* is governed by the law of the state in which the viator *or purchaser* having the largest fractional ownership resides. If the viators *or purchasers of viatical settlements* own equal fractions, they may agree in writing to choose ~~[the]~~ *which* state *, among the states* in which ~~[one resides.]~~ *the viators or purchasers of viatical settlements reside, will be the state whose law will govern.*

Sec. 37. NRS 688C.190 is hereby amended to read as follows:

688C.190 1. Except as otherwise provided in NRS 688C.215, a person shall not, without first obtaining a license from the Commissioner, operate in or from this State as *an investment agent or* a provider or broker of viatical settlements.

2. Application for a license must be made to the Commissioner on a form prescribed by him, accompanied by the prescribed fee. A license may be renewed from year to year on its anniversary by payment of the prescribed fee. The license expires if the fee is not paid by that date.

3. An applicant shall provide information on forms required by the Commissioner, who may at any time require the applicant to disclose the identity of all stockholders, partners, members, officers and employees. The Commissioner may refuse to issue a license to an organization if he is not satisfied that a stockholder, partner, member or officer who may materially influence the applicant's conduct satisfies the requirements of this chapter.

4. A license issued to an organization authorizes all partners, members, officers and designated employees to act as *investment agents or* providers or brokers of viatical settlements. Those persons must be named in the application or a supplement to it.

Sec. 38. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of the fee, the Commissioner shall investigate the applicant, and issue a license if he finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies him in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements ~~[, has]~~ *:*

(1) Has included a plan to prevent fraud which satisfies the requirements of NRS 688C.490 ~~[.]~~ *; and*

(2) Has demonstrated evidence of financial responsibility through either:

(I) A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than $250,000; or

(II) A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of $250,000.

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a broker of viatical settlements.

5. A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:

(a) Erroneous acts;

(b) Failure to act; or

(c) Conviction of:

(1) Fraud; or

(2) Unfair practices,

➥ by the provider or broker of viatical settlements.

6. The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time he deems necessary.

Sec. 39. NRS 688C.210 is hereby amended to read as follows:

688C.210 *1.* After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if he finds that:

~~[1.]~~ *(a)* There was material misrepresentation in the application for the license;

~~[2.]~~ *(b)* The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;

~~[3.]~~ *(c)* A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;

~~[4.]~~ *(d)* The applicant or licensee has been found guilty or guilty but mentally ill of, or pleaded guilty, guilty but mentally ill or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;

~~[5.]~~ *(e)* A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;

~~[6.]~~ *(f)* A provider of viatical settlements has failed to honor obligations of a viatical settlement ~~[;~~

~~7.]~~ *or an agreement to purchase a viatical settlement;*

(g) The licensee no longer meets a requirement for initial licensure;

~~[8.]~~ *(h)* A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement ~~[,]~~ *or* a special organization ~~[or a trust for a related provider;~~

~~9.]~~ *;*

(i) The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

~~[10.]~~ *(j)* The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; ~~[or~~

~~11.]~~ *(k)* The applicant or licensee has violated a provision of this chapter ~~[.]~~ *or other applicable provisions; or*

(l) The applicant or licensee has acted in bad faith with regard to a viator.

2. A suspension imposed for grounds set forth in paragraph (k) or (l) of subsection 1 must not exceed a period of 12 months.

3. If the Commissioner takes action as described in subsection 1, the applicant or licensee may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.

Sec. 40. NRS 688C.215 is hereby amended to read as follows:

688C.215 1. A natural person who has been licensed for at least 1 year and who is in good standing as a resident or nonresident producer of insurance with a life insurance qualification is not required to be licensed as *an investment agent or* a broker of viatical settlements.

2. A licensed producer of insurance specified in subsection 1 must register with the Division not more than 30 days after first operating as *an investment agent or* a broker of viatical settlements, on a form prescribed by the Commissioner, and pay the fee for registration pursuant to NRS 680B.010. Failure to register within the required period or late payment of or failure to pay the fee may result in the imposition of an administrative fine of not more than $500.

3. A producer of insurance who acts as *an investment agent or* a broker of viatical settlements pursuant to subsection 1 shall comply with the provisions of NRS 688C.220 to 688C.250, inclusive, and 688C.310.

Sec. 41. NRS 688C.230 is hereby amended to read as follows:

688C.230 1. Each licensee under this chapter shall file with the Commissioner on or before March 1 of each year an annual statement containing such information as the Commissioner prescribes by regulation. *Pursuant to subsection 7 of NRS 679B.190, the Commissioner shall classify as confidential any information received pursuant to this subsection that is:*

(a) Data of individual transactions in the business of viatical settlements; or

(b) Data that could compromise the privacy of personal, financial or health information of a viator or insured.

2. Except as allowed or required by a statute other than this chapter, a provider or broker of viatical settlements, *an investment agent,* an insurer, a producer of insurance, an information bureau, a rating agency or any other person knowing the identity of an insured shall not disclose that identity as an insured to any other person unless the disclosure is:

(a) Necessary to effect a viatical settlement between the viator and a provider of viatical settlements and the viator and the insured have given prior written consent to the disclosure;

(b) *Necessary to effect an agreement for the purchase of a viatical settlement between the purchaser and a provider of viatical settlements, and the viator and the insured have given prior written consent to the disclosure;*

(c) Furnished in response to an investigation or examination by the Commissioner or another governmental officer or agency;

~~[(c)]~~ *(d)* A term of or condition to the transfer of a policy by one provider of viatical settlements to another provider; or

~~[(d)]~~ *(e)* Necessary to permit a financing agent to finance the purchase of a policy by a provider of viatical settlements and the insured has given prior written consent to the disclosure.

Sec. 42. NRS 688C.250 is hereby amended to read as follows:

688C.250 1. With each application for a viatical settlement, a provider or broker of viatical settlements shall furnish to the viator at least the following disclosures , *in at least 12-point type,* no later than the time the application for the settlement is signed by all the parties, in a separate document signed by the viator and the provider or broker:

(a) *A broker of viatical settlements represents the viator exclusively, and not the insurer or the provider of viatical settlements, and owes a fiduciary duty to the viator, including a duty to act according to the instructions of the viator and in the best interest of the viator.*

(b) The possible alternatives to viatical settlement, including any accelerated death benefits or *policy* loans offered under the viator's *life insurance* policy.

~~[(b)]~~ *(c)* Some or all of the proceeds of the viatical settlement may be taxable under the federal income tax or a state franchise or income tax, and assistance should be sought from a professional tax adviser.

~~[(c)]~~ *(d)* Proceeds of the viatical settlement may be subject to the claims of creditors.

~~[(d)]~~ *(e)* Receipt of proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other governmental benefits, and advice should be sought from the appropriate governmental agencies.

~~[(e)]~~ *(f)* The viator has a right to ~~[terminate]~~ *rescind* a viatical settlement within ~~[15 days after his receipt of the proceeds,]~~ *the rescission period,* as provided in NRS 688C.300, and if the insured dies during ~~[that]~~ *the rescission* period, the settlement is ~~[terminated]~~ *deemed rescinded,* and all proceeds must be repaid to the provider ~~[.~~

~~(f)~~ *within 60 days after the death of the insured. Rescission, if exercised by the viator, is effective only if the viator:*

(1) Gives notice of the rescission to the provider or broker of viatical settlements; and

(2) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements,

➥ *within the rescission period.*

(g) Money will be sent to the viator within 3 business days after the provider has received the insurer's or group administrator's *written* acknowledgment that ownership of or interest in the policy has been transferred and the beneficiary has been designated.

~~[(g)]~~ *(h)* Entering into a viatical settlement may cause other rights, including conversion and waiver of premium, that may exist under the policy to be forfeited by the viator, and assistance should be sought from a financial adviser.

~~[(h)]~~ *(i)* A brochure is provided which describes the process of viatical settlement, in the form prescribed by the National Association of Insurance Commissioners unless the Commissioner prescribes a different form.

(j) The name and address of the person responsible for monitoring the condition of the insured, the frequency of monitoring, the means of determining date of death and the means and time by which the date of death will be transmitted to the purchaser.

2. The document in which the disclosures required by paragraphs (a) to ~~[(g),]~~ *(j),* inclusive, of subsection 1 are made must also contain the following:

All medical, financial and personal information solicited or obtained by a provider or broker of viatical settlements about an insured, including his identity and that of members of his family, a spouse or other relationship, may be disclosed as necessary to effect the viatical settlement between the viator and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. Failure to consent may affect your ability to viaticate your policy. The information may be furnished to someone who buys the policy or provides money for the purchase.

Sec. 43. NRS 688C.260 is hereby amended to read as follows:

688C.260 A provider of viatical settlements shall furnish to the viator, no later than the date the viatical settlement is signed by all parties, at least the following disclosures, *in at least 12-point type,* conspicuously displayed in the viatical settlement or in a separate document signed by the viator and the provider or broker of viatical settlements:

1. The affiliation, if any, between the provider *of viatical settlements* and the issuer of the policy to be viaticated.

2. The name, *business* address and telephone number of the provider ~~[.]~~ *of viatical settlements.*

3. ~~[The amount and method of calculating the broker's commission, including anything of value paid or given to the broker for placing the policy.]~~ *The name, business address and telephone number of the broker of viatical settlements.*

4. *Any affiliations or contractual agreements between the provider and purchaser of viatical settlements.*

5. Any affiliations or contractual agreements between the broker of viatical settlements and any person making an offer in connection with the proposed viatical settlement.

6. If the policy to be viaticated was issued as a joint policy, contains family riders or covers a life other than that of the insured under it, any possible loss of coverage on the other lives under the policy, and that the viator should consult the producer of the insurance or the issuer of the policy for advice concerning the settlement.

~~[5.]~~ *7.* The monetary amount of the current death benefit payable to the provider under the policy and, if known, the availability of any other guaranteed benefit, the monetary amount of any benefit for accidental death or dismemberment, and the ~~[provider's]~~ *extent to which the viator's* interest in those benefits ~~[~~.

~~6.]~~ *will be transferred as a result of the viatical settlement.*

8. The name, business address and telephone number of the escrow agent, and the right of the viator or owner to inspect or receive copies of the relevant escrow or trust agreements or related documents.

9. A complete and accurate description of all offers, counteroffers, acceptances and rejections relating to the proposed viatical settlement.

10. The amount and method of calculation of compensation of the broker of viatical settlements, including, without limitation, anything of value paid or given to the broker of viatical settlements for the placement of the policy.

11. A statement indicating the source of any compensation of the broker of viatical settlements from a proposed offer for the viatical settlement, the total amount of the offer for the viatical settlement and the compensation of the broker of viatical settlements expressed as a percentage of the offer for the viatical settlement.

Sec. 44. NRS 688C.270 is hereby amended to read as follows:

688C.270 1. A viator may not enter into a viatical settlement within ~~[2]~~ *5* years after the issuance of the policy to which the settlement relates unless one or more of the following conditions is or has been satisfied:

(a) The policy was issued upon the owner's exercise of a right of conversion arising out of a group policy ~~[~~.

~~(b) The owner of the policy is a charitable organization exempt from taxation under 26 U.S.C. § 501(c)(3).~~

~~(c) The owner of the policy is a business organization.~~

~~(d)]~~ *if the total of the time covered under the policy plus the time covered under the group policy is at least 60 months. The time covered under the*

group policy must be calculated without regard to a change in insurance carriers if the coverage has been continuous.

(b) The viator or owner submits to the provider of viatical settlements independent evidence that within the ~~[2-year]~~ *5-year* period:

(1) *The owner or insured has been diagnosed as terminally ill;*

(2) The owner or insured has been diagnosed ~~[to have]~~ *as chronically ill or has* an illness or condition that is life-threatening or requires a course of treatment for at least 2 years, long-term care or health care at home, or any combination of these;

~~[(2)]~~ *(3)* The spouse of the owner or insured has died;

~~[(3)]~~ *(4)* The owner or insured has divorced his spouse;

~~[(4)]~~ *(5)* The owner or insured has retired from full-time employment;

~~[(5)]~~ *(6)* The owner or insured has become physically or mentally disabled and a physician determines that the disability precludes him from maintaining full-time employment;

~~[(6) The owner of the policy was the employer of the insured and that relationship has terminated;]~~

(7) A final judgment or order has been entered or issued by a court of competent jurisdiction, on the application of a creditor or owner of the insured, adjudging the owner or insured bankrupt or insolvent, or approving a petition for reorganization of the owner or insured or appointing a receiver, trustee or liquidator for all or a substantial part of the assets of the owner or insured; *or*

(8) The owner of the policy experiences a significant decrease in income which is unexpected by him and impairs his reasonable ability to pay the premium on the policy . ~~[; or~~

~~(9) The owner or insured disposes of his ownership in a closely held corporation.]~~

2. The independent evidence must be submitted to the insurer when the provider of viatical settlements submits a request to the insurer to effect transfer of the policy to him. The insurer shall respond timely to the request. This section does not prohibit an insurer from exercising its right to contest a policy on the ground of fraud.

3. If a provider of viatical settlements submits to an insurer a copy of the owner's or insured's certification that one of the events described in paragraph ~~[(d)]~~ *(b)* of subsection 1 has occurred, the certification conclusively establishes that the viatical settlement is valid, and the insurer shall timely respond to the provider's request to effect a transfer of the policy.

Sec. 45. NRS 688C.280 is hereby amended to read as follows:

688C.280 1. A provider of viatical settlements who enters into a settlement shall first obtain:

(a) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a settlement;

(b) A witnessed document in which the viator ~~[represents]~~ *:*

(1) Consents to the viatical settlement;

(2) Represents that he has a full and complete understanding of the settlement and of the benefits of the policy ~~[, acknowledges]~~ *;*

(3) Acknowledges that he has entered into the settlement freely and voluntarily *;* and ~~[, if]~~

(4) If applicable to determine a payment to a person terminally or chronically ill, acknowledges that he is terminally or chronically ill and that the illness was diagnosed after the policy was issued; and

(c) A document in which the insured consents to the release of his medical records to a provider or broker of viatical settlements and the insurer that issued the policy covering him.

2. Within 20 days after a viator executes documents necessary to transfer rights under a policy, or enters into an agreement in any form, express or implied, to viaticate the policy, the provider of viatical settlements shall give written notice to the issuer of the policy that the policy has or will become viaticated. The notice must be accompanied by: ~~[a]~~

(a) A copy of the release of medical records ~~[and the]~~ *;*

(b) The application for the viatical settlement ~~[.]~~ *; and*

(c) A request for verification of coverage.

3. Any of the acts described in subsections 1 and 2, if performed by a broker of viatical settlements, will be deemed to have been performed by the provider of viatical settlements for the purposes of fulfilling the requirements of subsections 1 and 2.

4. Within 30 days after receiving a request for verification of coverage from a provider or broker of viatical settlements, an insurer shall respond by:

(a) Verifying coverage; and

(b) Indicating whether, on the basis of the medical evidence and documents provided, the insurer intends to pursue an investigation regarding the validity of the insurance or possible fraud.

Sec. 46. NRS 688C.290 is hereby amended to read as follows:

688C.290 1. A provider of viatical settlements shall instruct the viator to send the executed documents required to effect the change in ownership or assignment or change of beneficiary of the affected policy to a designated independent escrow agent. Within 3 business days after the date the escrow agent receives the documents, or within 3 business days after the provider receives the documents if by mistake they are sent directly to him, the escrow agent shall deposit the proceeds of the settlement into an escrow or trust account maintained in a regulated financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

2. Upon deposit of the proceeds in that account, the escrow agent shall deliver to the provider the original documents executed by the viator. Upon the provider's receipt from the insurer of an acknowledgment of the change in ownership or assignment or change of beneficiary of the affected policy,

he shall instruct the escrow agent to pay the proceeds of the settlement to the viator.

3. Payment to the viator must be made within 3 business days after the date the provider received the acknowledgment from the insurer. Failure to make the payment within that time makes the viatical settlement voidable by the viator for lack of consideration until payment is tendered to and accepted by the viator. *Payment to the viator shall be deemed to have been made as of the date that the escrow agent:*

(a) Releases money for a wire transfer to the viator; or

(b) Deposits a check for the amount of the proceeds with the United States Postal Service or with a commercially reasonable delivery service.

Sec. 47. NRS 688C.300 is hereby amended to read as follows:

688C.300 *1.* A viatical settlement entered into in this state must reserve to the viator an unconditional right to ~~[terminate]~~ *rescind* the settlement within ~~[15 days after he receives the proceeds of the settlement.]~~ *the rescission period. Rescission, if exercised by the viator, is effective only if the viator:*

(a) Gives notice of the rescission to the provider or broker of viatical settlements; and

(b) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements,

➥ *within the rescission period.*

2. If the insured dies during ~~[that]~~ *the rescission* period, the settlement is ~~[terminated, but the]~~ *deemed rescinded and all* proceeds *and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements* must be repaid to the provider of ~~[the]~~ viatical ~~[settlement.]~~ *settlements within 60 days after the death of the insured.*

3. In the event of a rescission, if the provider of viatical settlements has paid commissions or other compensation to a broker of viatical settlements in connection with the rescinded transaction, the broker of viatical settlements shall refund all such commissions and compensation to the provider of viatical settlements within 5 business days following receipt of written demand from the provider of viatical settlements. The demand must be accompanied by:

(a) The viator's notice of rescission, if the rescission was exercised by the viator; or

(b) Notice of the death of the insured, if the rescission was due to the death of the insured within the rescission period.

4. A purchaser of viatical settlements has the right to rescind an agreement to purchase a viatical settlement within 3 business days after the purchaser of viatical settlements receives the disclosures set forth in sections 21 and 22 of this act.

Sec. 48. NRS 688C.310 is hereby amended to read as follows:

688C.310 1. Contact with an insured to determine *his residential or business street address and telephone number or* the status of his health after a viatical settlement may be made only by a provider or broker of viatical settlements who is licensed in this state, or its authorized representative, and no oftener than once every 3 months if the insured has a life expectancy of 1 year or more, or once every month if the insured has a life expectancy of less than 1 year. The provider or broker shall explain the procedure for those contacts at the time the settlement is entered into.

2. The limitations of subsection 1 do not apply to contacts for purposes other than determining status of health.

3. A provider or broker is responsible for the acts of his authorized representative.

Sec. 49. NRS 688C.330 is hereby amended to read as follows:

688C.330 *1.* If a provider of viatical settlements transfers ownership or changes the beneficiary of a viaticated policy, he shall inform the insured of the transfer or change within 20 days after it occurs.

2. If an insurer receives a request for change of ownership or beneficiary of a viaticated policy from a provider of viatical settlements, the insurer shall respond within 30 days after receipt thereof with written confirmation that the change has been effected or specifying the reasons why the requested change could not be effected.

3. An insurer shall not unreasonably delay in effecting a requested change of ownership or beneficiary requested for a viaticated policy by a provider of viatical settlements.

4. An insurer shall not seek to interfere with a viatical settlement lawfully entered into in this State.

Sec. 50. NRS 688C.350 is hereby amended to read as follows:

688C.350 NRS 688C.350 to 688C.430, inclusive, *and sections 21, 22 and 23 of this act* apply to advertising of viatical settlements , *agreements to purchase viatical settlements* or related *products or* services intended for dissemination in this state, including advertising on the Internet which is viewed by persons in this state. To the extent that federal regulation establishes requirements for disclosure, those sections must be so interpreted as to eliminate or minimize conflict with the federal requirements.

Sec. 51. NRS 688C.370 is hereby amended to read as follows:

688C.370 *1.* An advertisement must be truthful and not misleading in fact or by implication. The form and content of an advertisement for viatical settlements , *agreements to purchase viatical settlements or related products or services* must be sufficiently complete and clear to avoid deception. An advertisement may not have a capacity or tendency to mislead or deceive, as determined by the Commissioner from the overall impression it may reasonably be expected to create upon a person of average education or intelligence in the segment of the public to which it is directed.

2. A provider of viatical settlements shall not enter into a viatical settlement unless the promotional, advertising and marketing materials, in at least 12-point type, have been filed with the Commissioner pursuant to regulations adopted by the Commissioner. The Commissioner shall adopt such regulations as he deems necessary to carry out the provisions of this subsection.

Sec. 52. NRS 688C.380 is hereby amended to read as follows:

688C.380 1. The information required to be disclosed under NRS 688C.350 to 688C.430, inclusive, *and sections 21, 22 and 23 of this act* may not be minimized, obscured, presented ambiguously or so intermingled with other text of an advertisement as to be confusing or misleading.

2. An advertisement may not omit material information or use language or illustrations if the omission or use has a capacity or tendency to, or does, mislead viators *, purchasers of viatical settlements or prospective purchasers of viatical settlements* as to the nature or extent of any benefit, loss covered, premium payable or effect on federal or state taxes. Making a viatical settlement *or an agreement to purchase a viatical settlement* available for inspection before it is consummated, or offering to refund payment if the viator is not satisfied within the period prescribed in *subsection 4 of* NRS 688C.300, does not remedy misleading statements.

3. An advertisement may not use the name or title of an insurer or policy unless the advertisement has been approved by the insurer.

4. *An advertisement may not represent that premiums on a viaticated policy need not be paid in order to maintain that policy, unless that is the fact.*

5. An advertisement may not state or imply that interest charged on an accelerated death benefit or loan on a policy is unfair or in any way improper.

~~[5.]~~ *6.* The words "free," "no additional cost" or words of similar import may not be used ~~[with]~~ *:*

(a) With respect to insurance, unless the terms of the policy provide that the policy is provided without cost to the policyholder.

(b) With respect to any benefit or service *other than insurance* unless true.

7. Certain advertisements relating to viatical settlements are deemed to be false and misleading on their face and are prohibited. Those advertisements include, without limitation, the following words and phrases:

(a) "Guaranteed," "fully secured," "100 percent secured," "fully insured," "secure," "safe," "backed by rated insurance companies," "backed by federal law," "backed by state law" or "state guaranty funds";

(b) "No risk," "minimal risk," "low risk," "no speculation" or "no fluctuation";

(c) "Qualified or approved for individual retirement accounts (IRAs), Roth IRAs, 401(k) plans, simplified employee pensions (SEPs), 403(b) plans, Keogh plans, TSA, other retirement account rollovers" or "tax deferred";

(d) Utilization of the word "guaranteed" to describe a fixed return, annual return, principal, earnings, profits or investment;

(e) "No sales charges or fees";

(f) "High yield," "superior return," "excellent return," "high return" or "quick profit"; and

(g) Favorable representations or testimonials about the benefits of viatical settlement contracts and agreements to purchase viatical settlements as an investment, out of context and purported to have been taken from newspapers, trade papers, journals, radio and television programs and all other forms of print and electronic media,

➥ *or similar representations.*

Sec. 53. NRS 688C.390 is hereby amended to read as follows:

688C.390 1. A testimonial, *endorsement,* appraisal or analysis used in an advertisement must be genuine, represent the present opinion of the author, apply to the viatical settlement *or agreement to purchase a viatical settlement* advertised, if any, and be reproduced with sufficient completeness to avoid misleading viators ~~[.]~~ *or purchasers of viatical settlements.* In using a testimonial, *endorsement,* appraisal or analysis, a licensee under this chapter makes the statements contained therein his own, and the statements must satisfy the requirements of NRS 688C.350 to 688C.430, inclusive ~~[.]~~ , *and sections 21, 22 and 23 of this act.*

2. If the person making a testimonial, *endorsement,* appraisal, analysis or endorsement has a financial interest in the provider of viatical settlements or a related organization, or receives a benefit other than required wages, that fact must be prominently disclosed in the advertisement.

3. An advertisement may not state or imply that a *benefit or service related to a* viatical settlement ~~[, benefit or service]~~ *or an agreement to purchase a viatical settlement* has been approved or endorsed by a group, society or other organization unless that is the fact and any relationship between the organization and the provider of viatical settlements is disclosed. If the organization is owned, controlled or managed by the provider, or receives any payment or other consideration from the provider for making the endorsement or testimonial, that fact must be disclosed in the advertisement.

4. An advertisement may not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement must be identified.

5. If an endorsement refers to benefits received under a viatical settlement or an agreement to purchase a viatical settlement, all information pertinent to that endorsement must be retained for a period of 5 years after the use of the endorsement.

Sec. 54. NRS 688C.410 is hereby amended to read as follows:

688C.410 1. The name of the provider of viatical settlements must be clearly identified in an advertisement about him , ~~[or]~~ his viatical settlements *or his agreements to purchase viatical settlements*. If a viatical settlement *or*

an agreement to purchase a viatical settlement is advertised, it must be identified by number or other appropriate description. If an application is part of an advertisement, the name of the provider must be shown on the application.

2. An advertisement may not use a trade name, designation of a group, name of a parent or particular division of a provider of viatical settlements, service mark, slogan or other device or reference without disclosing the identity of the provider of viatical settlements licensed under this chapter if the advertisement would have the capacity or tendency to mislead as to his true identity or create the impression that an organization other than the licensee would have a responsibility for the financial obligation under a viatical settlement. The name of the licensee must be stated in all advertisements.

Sec. 55. NRS 688C.420 is hereby amended to read as follows:

688C.420 1. An advertisement may not use a combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristic are so similar to a combination of words, symbols or physical materials used by a governmental program or agency, or otherwise appear to be of such a nature, that they tend to mislead viators *or purchasers of viatical settlements* into believing that the solicitation is connected with a governmental program or agency. An advertisement may not create the impression that a provider of viatical settlements, his financial condition or business practices, the payment of his claims or the merit, desirability or advisability of his viatical settlements *or agreements to purchase viatical settlements* is recommended or endorsed by a governmental authority.

2. An advertisement may state that a provider of viatical settlements is licensed in the state in which the advertisement appears, if it does not imply that competing providers are not so licensed. The advertisement may suggest consulting the licensee's website or communicating with the Commissioner to ascertain whether the state requires licensing and, if so, whether a particular provider or broker of viatical settlements is licensed.

Sec. 56. NRS 688C.450 is hereby amended to read as follows:

688C.450 It is a category D felony, and the offender shall be punished as provided in NRS 193.130, for any person, knowingly or with intent to defraud, to do any of the following acts in order to deprive another of property or for his own pecuniary gain:

1. Present, cause to be presented or prepare with knowledge or belief that it will be presented, false information to or by *an investment agent or* a provider or broker of viatical settlements, a financing agent, an insurer, a provider of insurance or any other person, or to conceal information, as part of, in support of or concerning a fact material to:

(a) An application for the issuance of a policy or viatical settlement;

(b) The underwriting of a policy or viatical settlement;

(c) A claim for payment or other benefit under a policy , ~~[or]~~ viatical settlement ~~[;]~~ *or agreement to purchase a viatical settlement;*

(d) A premium paid on a policy ~~[;]~~ *or as a result of an agreement to purchase a viatical settlement;*

(e) A payment or change of beneficiary or ownership pursuant to a policy or viatical settlement;

(f) The reinstatement or conversion of a policy;

(g) The solicitation, offer or effectuation of a policy , ~~[or]~~ viatical settlement ~~[;]~~ *or agreement to purchase a viatical settlement;* or

(h) The issuance of written evidence of a policy , ~~[or]~~ viatical settlement ~~[.]~~ *or agreement to purchase a viatical settlement.*

2. In furtherance of a fraud or to prevent detection of a fraud:

(a) Remove, conceal, alter, destroy or sequester from the Commissioner assets or records of a licensee under this chapter or other person engaged in the business of viatical settlements;

(b) Misrepresent or conceal the financial condition of a licensee, a financing agent, an insurer or other person;

(c) Transact the business of viatical settlements in violation of this chapter; or

(d) File with the Commissioner or analogous officer of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the Commissioner or other officer.

3. Present, cause to be presented or prepare with knowledge or belief that it will be presented to or by a provider or broker of viatical settlements, *an investment agent,* a financing agent, an insurer, a provider of insurance or any other person, in connection with a viatical settlement or transaction of insurance, a policy fraudulently by the insured or owner or an agent of either.

4. Embezzle, steal, misappropriate or convert money, premiums, credits or other property *in an amount or having a value of less than $250* of a provider of viatical settlements, a viator, an insurer, an insured, an owner of a policy or other person engaged in the business of viatical settlements or insurance.

5. Attempt to commit, assist, aid, abet or conspire to commit an act or omission described in subsections 1 to 4, inclusive.

6. Under no circumstances is a violation of this section considered or intended to be a lesser included offense of a violation of the provisions of NRS 90.570.

Sec. 57. NRS 688C.470 is hereby amended to read as follows:

688C.470 1. Except as otherwise provided in subsection 2, a person furnishing information of the kind described in NRS 688C.460 is immune from liability and civil action if the information is furnished to or received from:

(a) The Commissioner or his employees, agents or representatives;

(b) Another federal, state or local law enforcement or regulatory officer or his employees, agents or representatives;

(c) Another person involved in the prevention or detection of violations of NRS 688C.450 or similar offenses or his employees, agents or representatives;

(d) The National Association of Insurance Commissioners or other regulatory body overseeing life insurance or viatical settlements, or its employees, agents or representatives; or

(e) The insurer that issued the policy concerned in the information.

2. The immunity provided in subsection 1 does not extend to a statement made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a violation of NRS 688C.450, the plaintiff must plead specifically that the defendant acted with actual malice.

3. This section does not supplant or modify any other privilege or immunity at common law or under another statute enjoyed by a person described in subsection 1.

4. Except as otherwise provided in subsection 5, a person furnishing information as described in subsection 1 is entitled to an award of attorney's fees and costs if:

(a) The person is a defendant in a civil case arising out of activities performed in carrying out the provisions of this section;

(b) The cause of action in the case is for libel, slander or any other relevant tort;

(c) The person is the prevailing party in the case; and

(d) The person bringing the action is not substantially justified in doing so.

5. A person furnishing information relating to his own fraudulent acts as they relate to a viatical settlement is not entitled to an award pursuant to subsection 4.

Sec. 58. NRS 688C.510 is hereby amended to read as follows:

688C.510 1. In addition to the penalties and other means of enforcement provided under this chapter:

(a) If a person violates a provision of this chapter or of a regulation adopted under this chapter, the Commissioner may seek an injunction and apply for temporary and permanent orders he determines to be necessary to restrain the violator.

(b) A person who violates a provision of this chapter is subject to an administrative fine of not more than $1,000 for each violation.

(c) In addition to a criminal penalty imposed, the court shall order restitution to the person aggrieved by the violation.

2. A person aggrieved by a violation of this chapter may bring a civil action against the violator to recover the damages suffered.

3. A violation of this chapter attendant to the signing of an agreement to purchase a viatical settlement renders the agreement voidable and subject to rescission by the purchaser of viatical settlements, upon tender of the

viaticated policy by the purchaser of viatical settlements to the provider of viatical settlements. Suit for rescission may be brought:

(a) In a court of competent jurisdiction;

(b) In the jurisdiction where the alleged violator resides;

(c) In the jurisdiction where the alleged violator has a principal place of business; or

(d) In the jurisdiction where the alleged violation occurred.

Sec. 59. NRS 689B.026 is hereby amended to read as follows:

689B.026 1. Except as otherwise provided in this section, no policy of group health insurance may be delivered or issued for delivery in this state to a group which was formed for the purpose of purchasing one or more policies of group health insurance.

2. A policy of group health insurance may be delivered to a group described in subsection 1 if the Commissioner approves the issuance. The Commissioner shall not grant his approval unless he finds that:

(a) *All policy rates and forms are filed with and approved by the Division prior to marketing to a resident or employer in this State;*

(b) The benefits of the policy are reasonable in relation to the premiums charged; and

~~[(b)]~~ *(c)* The group to which the policy is issued is organized and operated in a fiscally sound manner.

3. ~~[Upon approval by the Commissioner, an insurer may exclude or limit the coverage in a policy issued pursuant to this section of any person as to whom evidence of insurability is not satisfactory to the insurer.]~~ *The Commissioner shall use the provisions of this chapter and chapter 689C of NRS to review insurance products to employers in this State. The Commissioner shall use the provisions of chapter 689A of NRS to review insurance products marketed to natural persons in this State.*

4. The provisions of this section apply to the offering in this state of a policy issued in another state.

Sec. 60. NRS 689B.080 is hereby amended to read as follows:

689B.080 Any insurer authorized to write health insurance in this state, including a nonprofit corporation for hospital, medical or dental services that has a certificate of authority issued pursuant to chapter 695B of NRS, may issue blanket accident and health insurance. No blanket policy, except as provided in subsection ~~[4]~~ *5* of NRS 687B.120, may be issued or delivered in this state unless a copy of the form thereof has been filed in accordance with NRS 687B.120. Every blanket policy must contain provisions which in the opinion of the Commissioner are not less favorable to the policyholder and the individual insured than the following:

1. A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured constitutes the entire contract between the parties, and that any statement made by the policyholder or by a person insured is in the absence of fraud a representation and not a warranty, and that no such statements may be used in defense to a

claim under the policy, unless contained in a written application. The insured, his beneficiary or assignee has the right to make a written request to the insurer for a copy of an application, and the insurer shall, within 15 days after the receipt of a request at its home office or any branch office of the insurer, deliver or mail to the person making the request a copy of the application. If a copy is not so delivered or mailed, the insurer is precluded from introducing the application as evidence in any action based upon or involving any statements contained therein.

2. A provision that written notice of sickness or of injury must be given to the insurer within 20 days after the date when the sickness or injury occurred. Failure to give notice within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to give notice and that notice was given as soon as was reasonably possible.

3. A provision that the insurer will furnish to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If the forms are not furnished before the expiration of 15 days after giving written notice of sickness or injury, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

4. A provision that in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within 90 days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within 90 days after the date of the loss. Failure to furnish such proof within that time does not invalidate or reduce any claim if it is shown that it was not reasonably possible to furnish proof and that the proof was furnished as soon as was reasonably possible.

5. A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of written proof of loss, and that, subject to proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of that period will be paid immediately upon receipt of proof.

6. A provision that the insurer at its own expense has the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

7. A provision, if applicable, setting forth the provisions of NRS 689B.035.

8. A provision for benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

9. A provision that no action at law or in equity may be brought to recover under the policy before the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action may be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

Sec. 61. Chapter 689C of NRS is hereby amended by adding thereto the provisions set forth as sections 62, 63 and 64 of this act.

Sec. 62. *Each group health insurance policy must contain in substance a provision for benefits payable for expenses incurred for the treatment of abuse of alcohol or drugs, as provided in section 64 of this act.*

Sec. 63. *1. Notwithstanding any provisions of this title to the contrary, a policy of group health insurance delivered or issued for delivery in this State pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.*

2. The coverage required by this section:

(a) Must provide:

(1) Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and

(2) That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of hospitalization not used by the insured. In no event is the policy required to provide coverage for more than 40 days of hospitalization as an inpatient per policy year.

(b) Is not required to provide benefits for psychosocial rehabilitation or care received as a custodial inpatient.

3. Any deductibles and copayments required to be paid for the coverage required by this section must not be greater than 150 percent of the out-of-pocket expenses required to be paid for medical and surgical benefits provided pursuant to the policy of group health insurance.

4. The provisions of this section do not apply to a policy of group health insurance if, at the end of the policy year, the premiums charged for that policy, or a standard grouping of policies, increase by more than 2 percent as a result of providing the coverage required by this section and the insurer obtains an exemption from the Commissioner pursuant to subsection 5.

5. To obtain the exemption required by subsection 4, an insurer must submit to the Commissioner a written request therefor that is signed by an actuary and sets forth the reasons and actuarial assumptions upon which the request is based. To determine whether an exemption may be granted, the Commissioner shall subtract from the amount of premiums charged during the policy year the amount of premiums charged during the period

immediately preceding the policy year and the amount of any increase in the premiums charged that is attributable to factors that are unrelated to providing the coverage required by this section. The Commissioner shall verify the information within 30 days after receiving the request. The request shall be deemed approved if the Commissioner does not deny the request within that time.

6. The provisions of this section do not:

(a) Limit the provision of specialized services covered by Medicaid for persons with conditions relating to mental health or substance abuse.

(b) Supersede any provision of federal law, any federal or state policy relating to Medicaid, or the terms and conditions imposed on any Medicaid waiver granted to this State with respect to the provisions of services to persons with conditions relating to mental health or substance abuse.

7. A policy of group health insurance subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 3, 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, unless the policy is otherwise exempt from the provisions of this section pursuant to subsection 4.

8. As used in this section, "severe mental illness" means any of the following mental illnesses that are biologically based and for which diagnostic criteria are prescribed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association:

(a) Schizophrenia.

(b) Schizoaffective disorder.

(c) Bipolar disorder.

(d) Major depressive disorders.

(e) Panic disorder.

(f) Obsessive-compulsive disorder.

Sec. 64. *1. The benefits provided by a group policy for health insurance, as required by section 62 of this act, for the treatment of abuse of alcohol or drugs must consist of:*

(a) Treatment for withdrawal from the physiological effects of alcohol or drugs, with a minimum benefit of $1,500 per calendar year.

(b) Treatment for a patient admitted to a facility, with a minimum benefit of $9,000 per calendar year.

(c) Counseling for a person, group or family who is not admitted to a facility, with a minimum benefit of $2,500 per calendar year.

2. These benefits must be paid in the same manner as benefits for any other illness covered by a similar policy are paid.

3. The insured person is entitled to these benefits if treatment is received in any:

(a) Facility for the treatment of abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services.

(b) Hospital or other medical facility or facility for the dependent which is licensed by the Health Division of the Department of Health and Human Services, is accredited by the Joint Commission on Accreditation of Healthcare Organizations and provides a program for the treatment of abuse of alcohol or drugs as part of its accredited activities.

Sec. 65. NRS 692A.100 is hereby amended to read as follows:

692A.100 1. The Commissioner shall provide by regulation for the licensing of title agents, their branch offices, direct writing title insurers and escrow officers.

2. Each title agent shall maintain his books of account and record and his vouchers pertaining to title insurance business in a manner which permits the Commissioner or his representative to ascertain readily whether the agent has complied with the provisions of this chapter.

3. A title agent or escrow officer may engage in the business of handling escrows, settlements and closings if he maintains a separate record of all receipts and disbursements of money held in escrow and does not commingle that money with his own.

4. *Except as otherwise provided in subsection 5:*

(a) For the purpose of determining its financial condition, fulfillment of its contractual obligations and compliance with law, the Commissioner or his representative or the Commissioner of Financial Institutions of the Department of Business and Industry or his representative when requested by the Commissioner of Insurance shall each year examine or cause to be examined *in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive,* the affairs, transactions, agreements, assets, records and accounts, including the escrow accounts, of a title agent, title insurer or escrow officer.

~~[5.]~~ *(b)* A title agent or insurer may engage a certified public accountant to perform such an examination in lieu of the Commissioner. In such a case, the examination must be equivalent to the type of examination made by the Commissioner and the expense must be borne by the title agent or insurer being examined. *If a title agent or insurer engages a certified public accountant to conduct an examination, the title agent or insurer may do so only for a period of not more than 2 years.*

5. The Commissioner shall personally examine in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive, the affairs, transactions, agreements, assets, records and accounts, including escrow accounts, of a title agent, title insurer or escrow officer as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 3 years.

6. The Commissioner shall determine whether an examination performed by an accountant pursuant to *paragraph (b) of* subsection ~~[5]~~ *4* is equivalent to an examination conducted by him. The Commissioner may examine any

area of the operation of a title agent or insurer if the Commissioner determines that the examination of that area is not equivalent to an examination conducted by him.

7. A person shall not become licensed to circumvent the provisions of this chapter or any other law of this state.

Sec. 66. NRS 694C.060 is hereby amended to read as follows:

694C.060 "Captive insurer" means ~~[any pure captive insurer, association captive insurer, agency captive insurer, rental captive insurer and sponsored captive insurer licensed pursuant to this chapter. The term includes a pure captive insurer who, unless otherwise provided by the Commissioner, is a branch captive insurer with respect to operations in this State.]~~ *an insurance company which is owned by:*

1. A parent organization and whose exclusive purpose is to insure risks of:

(a) The parent organization; and

(b) Any affiliated companies of the parent organization; or

2. More than one insured and whose exclusive purpose is to insure risks of:

(a) The insureds and members, if any, of the insureds; and

(b) Any affiliates of:

(1) The insureds; or

(2) Members, if any, of the insureds.

Sec. 67. NRS 694C.180 is hereby amended to read as follows:

694C.180 1. Unless otherwise approved by the Commissioner, a pure captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer must be incorporated as a stock insurer.

2. An association captive insurer must be formed as a:

(a) Stock insurer;

(b) Mutual insurer; or

(c) Reciprocal insurer, except that its attorney-in-fact must be a corporation incorporated in this State.

3. A captive insurer shall have not less than three incorporators or organizers, at least one of whom must be a resident of this State.

4. Before the articles of incorporation of a captive insurer may be filed with the Secretary of State, the Commissioner must approve the articles of incorporation. In determining whether to grant that approval, the Commissioner shall consider:

(a) The character, reputation, financial standing and purposes of the incorporators or organizers;

(b) The character, reputation, financial responsibility, experience relating to insurance and business qualifications of the officers and directors of the captive insurer;

(c) The competence of any person who, pursuant to a contract with the captive insurer, will manage the affairs of the captive insurer;

(d) The competence, reputation and experience of the legal counsel of the captive insurer relating to the regulation of insurance;

(e) *The character, competence, reputation, expertise and experience of any other persons who manage, directly or indirectly, or provide professional services for the captive insurer;*

(f) If the captive insurer is a rental captive insurer, the competence, reputation and experience of the underwriter of the captive insurer;

~~[(f)]~~ *(g)* The business plan of the captive insurer; and

~~[(g)]~~ *(h)* Such other aspects of the captive insurer as the Commissioner deems advisable.

5. The capital stock of a captive insurer incorporated as a stock insurer must be issued at not less than par value.

6. At least one member of the board of directors of a captive insurer formed as a corporation, or one member of the subscribers advisory committee or the attorney-in-fact of a captive insurer formed as a reciprocal insurer, must be a resident of this State.

7. A captive insurer formed pursuant to the provisions of this chapter has the privileges of, and is subject to, the provisions of general corporation law set forth in chapter 78 of NRS and, if formed as a nonprofit corporation, the provisions set forth in chapter 82 of NRS, as well as the applicable provisions contained in this chapter. If the provisions of this chapter conflict with the general provisions in chapter 78 or 82 of NRS governing corporations, the provisions of this chapter control. The provisions of chapter 693A of NRS ~~[relating to mergers, consolidations, conversions, mutualizations and transfers of domicile to this State]~~ apply to determine the procedures to be followed by captive insurers in carrying out any of those transactions in accordance with this chapter.

8. The articles of association, articles of incorporation, charter or bylaws of a captive insurer formed as a corporation must require that a quorum of the board of directors consists of not less than one-third of the number of directors prescribed by the articles of association, articles of incorporation, charter or bylaws.

9. The agreement of the subscribers or other organizing document of a captive insurer formed as a reciprocal insurer must require that a quorum of its subscribers advisory committee consists of not less than one-third of the number of its members.

Sec. 68. NRS 694C.310 is hereby amended to read as follows:

694C.310 1. The board of directors of a captive insurer shall meet at least once each year in this State. The captive insurer shall:

(a) Maintain its principal place of business in this State; and

(b) Appoint a resident of this State as a registered agent to accept service of process and otherwise act on behalf of the captive insurer in this State. If the registered agent cannot be located with reasonable diligence for the purpose of serving a notice or demand on the captive insurer, the notice or

demand may be served on the Secretary of State who shall be deemed to be the agent for the captive insurer.

2. A captive insurer shall not transact insurance in this State unless:

(a) The captive insurer has made adequate arrangements with a bank located in this State that is authorized pursuant to state or federal law to transfer money;

(b) If the captive insurer employs or has entered into a contract with a natural person or business organization to manage the affairs of the captive insurer, the natural person or business organization meets the standards of competence and experience satisfactory to the Commissioner;

(c) The captive insurer employs or has entered into a contract with a qualified and experienced certified public accountant who is approved by the Commissioner or a firm of certified public accountants that is nationally recognized;

(d) The captive insurer employs or has entered into a contract with qualified, experienced actuaries who are approved by the Commissioner to perform reviews and evaluations of the operations of the captive insurer; and

(e) The captive insurer employs or has entered into a contract with an attorney who is licensed to practice law in this State and who meets the standards of competence and experience in matters concerning the regulation of insurance in this State established by the Commissioner by regulation.

3. A person who serves as a member of a board of directors of a captive insurer shall not, directly or indirectly, transact business with, or provide a service or product for a fee or other compensation to, the captive insurer.

Sec. 69. NRS 695E.130 is hereby amended to read as follows:

695E.130 1. Except as otherwise provided in chapter 685A of NRS, a purchasing group shall not purchase insurance from an unauthorized insurer or a risk retention group that is not chartered or registered in this state.

2. A purchasing group is exempt from any law of this state that relates to the formation or prohibition of groups for the purchase of insurance, and any law that would discriminate against a purchasing group or its members.

3. An insurer is exempt from any law of this state that prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experiences not afforded to other persons with respect to rates, policy forms, coverages or other matters.

4. ~~[A purchasing group and its insurer are exempt from any law of this state which requires that an insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent residing in this state.~~

~~5.]~~ A purchasing group that obtains liability insurance from a surplus lines insurer or a risk retention group shall inform each of the members of the purchasing group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

~~[6.]~~ *5.* No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, but the coverage may provide for a deductible or self-insured retention applicable to individual members of the group.

~~[7.]~~ *6.* Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

Sec. 70. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine *in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive,* the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 3 years.

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

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

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

Sec. 71. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of $500.

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements between any person who is responsible for conducting the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration annually before ~~[the registration expires.]~~ *March 1.* Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of $500; and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

Sec. 72. Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 73, 74 and 75 of this act.

Sec. 73. *"Provider of viatical settlements" has the meaning ascribed to it in NRS 688C.080.*

Sec. 74. *"Viatical settlement investment" means the contractual right to receive a specified portion of the death benefit or ownership of a life insurance policy or certificate in exchange for consideration that is less than the dollar amount of the expected death benefit of the life insurance policy or certificate. The term does not include:*

1. A transaction between a viator and a provider of viatical settlements;

2. A transfer of ownership or beneficial interest in a life insurance policy from a provider of viatical settlements to another provider of viatical settlements, or to a legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;

3. The bona fide assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union or other licensed lending institution as collateral for a loan; or

4. The exercise of accelerated benefits pursuant to the terms of a life insurance policy issued in accordance with title 57 of NRS.

Sec. 75. *"Viator" has the meaning ascribed to it in NRS 688C.150, except that for the purposes of this chapter, a viator need not be a resident of this State.*

Sec. 76. NRS 90.211 is hereby amended to read as follows:

90.211 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 90.215 to 90.307, inclusive, *and*

sections 73, 74 and 75 of this act have the meanings ascribed to them in those sections.

Sec. 77. NRS 90.295 is hereby amended to read as follows:

90.295 "Security" means a note, stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in a profit-sharing agreement, a limited partnership interest, an interest in a limited-liability company, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, *viatical settlement investment,* voting-trust certificate, certificate of deposit for a security, fractional undivided interest in an oil, gas or other mineral lease or in payments out of production of such a lease, right or royalty, a put, call, straddle or option on a security, certificate of deposit or group or index of securities including any interest therein or based on the value of any of the foregoing, or, in general, any interest or instrument commonly known as a security or any certificate of interest or participation in, temporary or interim certificate for, receipt for, whole or partial guarantee of or warrant or right to subscribe to or purchase any of the foregoing. The term does not include:

1. An insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period; or

2. An interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974.

Sec. 78. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an employee leasing company which complies with the provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company.

2. ~~[If an]~~ *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]~~ *responsible* 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.]~~ *workers' compensation insurance.*

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 ~~[.]~~ *or pursuant to title 57 of NRS.*

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

➥ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 78.3. *NRS 658.151 is hereby amended to read as follows:*

658.151 1. The Commissioner may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the depository institution:

(a) Has violated its charter or any laws applicable thereto.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' or members' equity.

(e) Has refused to pay its depositors in accordance with the terms on which such deposits were received, or has refused to pay its holders of certificates of indebtedness or investment in accordance with the terms upon which those certificates of indebtedness or investment were sold.

(f) Has become *or is in imminent danger of becoming* otherwise insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to trustees.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS.

2. The Commissioner also may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the officers of the depository institution have refused to be examined upon oath regarding its affairs.

Sec. 78.7. *NRS 667.035 is hereby amended to read as follows:*

667.035 1. ~~[After July 1, 1971, the]~~ *The* Federal Deposit Insurance Corporation created by the Federal Deposit Insurance Act, 12 U.S.C. § 1811, may act without bond as receiver or liquidator of any state bank which ~~[has]~~ *:*

(a) Has been closed because of inability to meet the demands of its depositors ~~[.]~~ *; or*

(b) Is insured by the Federal Deposit Insurance Corporation and has been taken possession of by the Commissioner pursuant to NRS 658.151.

2. The appropriate state authority having the right to appoint a receiver or liquidator of a state bank may, upon such closing, tender to the Federal Deposit Insurance Corporation the appointment as receiver or liquidator of such bank. If the Federal Deposit Insurance Corporation accepts the appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator, respectively, of a state bank, its depositors and other creditors, and shall be subject to all the duties of such receiver or liquidator, except insofar as such powers, privileges or duties are in conflict with the provisions of the Federal Deposit Insurance Act.

Sec. 79. NRS 688C.120 and 688C.340 are hereby repealed.

Sec. 80. 1. This section and sections 5 and 7 of this act become effective upon passage and approval.

2. *Sections 0.2 to 0.8, inclusive, and 3.5 of this act become effective on July 1, 2009.*

3. Sections 1 ~~[to 4, inclusive,]~~ *, 2, 3, 4,* 6, 10 to 60, inclusive, and 65 to 79, inclusive, of this act become effective on October 1, 2009.

~~[3.]~~ *4.* Sections 8 and 61 to 64, inclusive, of this act become effective on October 3, 2009.

~~[4.]~~ *5.* Section 9 of this act becomes effective on October 9, 2009.

TEXT OF REPEALED SECTIONS

688C.120 "Trust for a related provider" defined. "Trust for a related provider" means a trust established by a licensed provider of viatical settlements solely to hold the ownership of or beneficial interests in purchased policies in connection with financing.

688C.340 Trust for related provider: Required agreement between trustee and provider. The trustee of a trust for a related provider must agree in writing with the provider of viatical settlements that the provider is responsible for ensuring compliance with all statutory and regulatory requirements and that the trustee will make all records and files related to viatical settlements available to the Commissioner as if those records and files were maintained directly by the provider.

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 adds sections 0.2 to 0.8 and section 3.5 to the bill. These new sections impose new fees to be paid by the different entities that are regulated by the Insurance Division, such as; insurers, reinsurers, rate services organizations, HMOs, bail solicitors, title agents, escrow officers and insurance consultants, etc., for which I am sure there are more. It provides for the revenue from those new fees to be used by the Insurance Division to administer and enforce the provisions of the Nevada Insurance Code.

The amendment also adds new sections 78.3 and 78.7 to the bill and these sections add greater flexibility in asking the Federal Deposit Insurance Corporation to become a receiver or liquidator of a state bank that has closed or has been taken over by the Commissioner of the Financial Institutions Division.

Senator Parks moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 2:33 p.m.

SENATE IN SESSION

At 2:36 p.m.

President Krolicki presiding.

Quorum present.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Care moved that Senate Bill No. 388 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senate Bill No. 393.

Bill read second time.

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

Amendment No. 552.

"SUMMARY—Revises provisions governing barber schools. (BDR 34-1223)"

"AN ACT relating to postsecondary education; transferring regulation of barber schools *and instructors* from the State Barbers' Health and Sanitation Board to the Commission on Postsecondary Education; *revising provisions relating to the employment of licensed apprentices;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ *Sections 1.7, 3.5 and 3.7 of this* bill ~~[transfers]~~ *transfer* the responsibility for the licensing and regulation of barber schools *and instructors* from the State Barbers' Health and Sanitation Board to the Commission on Postsecondary Education. *Existing law prescribes the fee for obtaining a license to operate a barber school or as an instructor. in a barber school. (NRS 643.175) Section 3.7 of this act provides that the same fee may be charged by the Commission on Postsecondary Education for such licensure.*

Existing law provides for the licensure and regulation of persons licensed to engage in the practice of barbering as an apprentice. (NRS 643.070-643.170) Section 5 of this bill requires the State Barbers' Health and Sanitation Board to adopt regulations relating to the employment of licensed apprentices.

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

Section 1. Chapter 394 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 1.3 and 1.7 of this act.*

Sec. 1.3. "Barber school" means a school of barbering, college of barbering and any other place or institution of instruction training persons to engage in:

1. Shaving or trimming the beard, cutting or trimming the hair, or hair weaving.

2. Giving massages of the face or scalp or treatments with oils, creams, lotions or other preparations, by hand or mechanical appliances.

3. Singeing, shampooing or dyeing the hair, or applying hair tonics.

4. Applying cosmetic preparations, antiseptics, powders, oils or lotions to the scalp, face or neck.

5. Arranging, fitting, cutting, styling, cleaning, coloring or dyeing a hairpiece or wig, whether made of human hair or synthetic material.

Sec. 1.7. 1. It is unlawful for any person to instruct the practice of barbering in a barber school unless he is licensed as an instructor by the Commission.

2. The Commission may license as an instructor any person who:

(a) Has applied to the Commission in writing on the form prescribed by the Commission;

(b) Holds a high school diploma or its equivalent;

(c) Has paid the applicable fee;

(d) Holds a license as a barber issued by the State Barbers' Health and Sanitation Board pursuant to chapter 643 of NRS;

(e) Submits all information required to complete the application;

(f) Has practiced not less than 5 years as a full-time licensed barber in this State, the District of Columbia or in any other state or country whose requirements for licensing barbers are substantially equivalent to those in this State;

(g) Has successfully completed a training program for instructors conducted by a licensed barber school which consists of not less than 600 hours of instruction within a 6-month period; and

(h) Has passed an examination for instructors administered by the Commission.

3. An applicant for a license as an instructor who fails to pass the examination required by paragraph (h) of subsection 2 must complete further study prescribed by the Commission, not to exceed 250 hours, in a barber school approved by the Commission before he may retake the examination for a license as an instructor.

Sec. 2. NRS 394.005 is hereby amended to read as follows:

394.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 394.006 to 394.112, inclusive, *and section ~~[1]~~ 1.3 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 394.099 is hereby amended to read as follows:

394.099 "Postsecondary educational institution" means an academic, vocational, technical, home study, business, professional or other school, college or university that is privately owned, *including, without limitation, a barber school,* or any person offering postsecondary education if he:

1. Is not licensed as a postsecondary educational institution in this state by a federal or another state agency;

2. Charges tuition, requires or requests donations or receives any consideration from a student for any portion of the instruction, including written or audiovisual material;

3. Educates or trains persons who are not his employees; and

4. Educates or trains, or claims or offers to educate or train, students in a program leading toward:

(a) Employment at a beginning or advanced level;

(b) Educational credentials;

(c) Credits that are intended to be applied toward an educational credential awarded in another state which does not require the person to obtain a majority of the credits required in that state; or

(d) Preparation for examinations for initial licensing in a profession or vocation.

➥ The term includes a branch or extension of a public or private postsecondary educational institution of another state that is located in this state or which offers educational services or education in this state. The term does not include an institution or person offering only educational services or programs at the introductory level on the use of computer software to persons who have purchased that software from the institution or person.

Sec. 3.5. *NRS 394.411 is hereby amended to read as follows:*

394.411 1. The Commission shall adopt regulations governing the administration of NRS 394.383 to 394.560, inclusive, *and sections 1.3 and 1.7 of this act* and may adopt such other regulations as are proper or necessary for the execution of the powers and duties conferred upon it by law.

2. The Administrator shall execute, direct or supervise all administrative, technical and procedural activities for which he is responsible in accordance with the policies and regulations of the Commission and subject to the Commission's direction and control.

Sec. 3.7. *NRS 394.540 is hereby amended to read as follows:*

394.540 1. The fees imposed pursuant to this section must be collected by the Administrator and deposited in the State Treasury to the credit of the State General Fund, and no fees so collected are subject to refund.

2. The fees are:

(a) For a new license *, other than a license to operate a barber school or a license as an instructor in a barber school* $1,500

(b) For an application by an unlicensed out-of-state educational institution to employ agents in this state 1,000

(c) *For a new license to operate a barber school* *250*

(d) For the renewal of a license to operate a barber school *100*

(e) For a new license or the renewal of a license as an instructor in a barber school *250*

(f) For a change of ownership 750

~~[(d)]~~ *(g)* To add a new degree or vocational program 500

~~[(e)]~~ *(h)* For an initial agent's permit 200

~~[(f)]~~ *(i)* For the renewal of an agent's permit 100

~~[(g)]~~ *(j)* For a transcript of an academic record which is in the possession of the Administrator pursuant to NRS 394.550 5

3. In addition, the Administrator shall collect from each licensed postsecondary educational institution a fee of $4 for each student from which the institution has received tuition or registration fees. The institution shall

collect this fee from each such student at the time of the student's initial enrollment with the institution. On or before the first day of January, April, July and October, the institution shall transmit to the Administrator the fees collected pursuant to this subsection during the preceding quarter. The Administrator shall deposit the fees so transmitted with the State Treasurer for credit to the State General Fund.

Sec. 4. NRS 643.010 is hereby amended to read as follows:

643.010 As used in this chapter, unless the context otherwise requires:

1. "Barber school" includes a school of barbering, college of barbering and any other place or institution of instruction training persons to engage in the practice of barbering.

2. "Barbershop" means any establishment or place of business where the practice of barbering is engaged in or carried on.

3. "Board" means the State Barbers' Health and Sanitation Board.

4. ~~["Instructor" means any person who is licensed by the Board pursuant to the provisions of this chapter to instruct the practice of barbering in a barber school.~~

~~5.]~~ "Licensed apprentice" means a person who is licensed to engage in the practice of barbering as an apprentice pursuant to the provisions of this chapter.

~~[6.]~~ *5.* "Licensed barber" means a person who is licensed to engage in the practice of barbering pursuant to the provisions of this chapter.

~~[7.]~~ *6.* "Practice of barbering" means any of the following practices for cosmetic purposes:

(a) Shaving or trimming the beard, cutting or trimming the hair, or hair weaving.

(b) Giving massages of the face or scalp or treatments with oils, creams, lotions or other preparations, by hand or mechanical appliances.

(c) Singeing, shampooing or dyeing the hair, or applying hair tonics.

(d) Applying cosmetic preparations, antiseptics, powders, oils or lotions to the scalp, face or neck.

(e) Arranging, fitting, cutting, styling, cleaning, coloring or dyeing a hairpiece or wig, whether made of human hair or synthetic material. This does not restrict any establishment from setting or styling a hairpiece or wig in preparation for retail sale.

~~[8. "Student" means a person receiving instruction in a barber school.]~~

Sec. 5. NRS 643.050 is hereby amended to read as follows:

643.050 1. The Board may:

(a) Maintain offices in as many locations in this State as it finds necessary to carry out the provisions of this chapter.

(b) Employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(c) Adopt regulations necessary to carry out the provisions of this chapter.

2. The Board shall prescribe, by regulation, sanitary requirements for barbershops . ~~[and barber schools.]~~

3. Any member of the Board or its agents or assistants may enter and inspect any barbershop ~~[or barber school]~~ at any time during business hours or at any time when the practice of barbering ~~[or instruction]~~ in that practice is being carried on.

4. The Board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension and revocation of licenses. The record must contain the name, place of business and residence of each licensed barber ~~[,]~~ *and* licensed apprentice ~~[and instructor,]~~ and the date and number of his license. The record must be open to public inspection at all reasonable times.

5. The Board may approve and, by official order, establish the days and hours when barbershops may remain open for business whenever agreements fixing such opening and closing hours have been signed and submitted to the Board by any organized and representative group of licensed barbers of at least 70 percent of the licensed barbers of any county. The Board may investigate the reasonableness and propriety of the hours fixed by such an agreement, as is conferred by the provisions of this chapter, and the Board may fix hours for any portion of a county.

6. The Board may adopt regulations governing the ~~[conduct of barber schools and the course of study of barber schools.]~~ *employment of licensed apprentices by licensed barbers, which must authorize a licensed barber to employ 3 licensed apprentices.*

Sec. 6. NRS 643.080 is hereby amended to read as follows:

643.080 Any person is qualified to receive a license as an apprentice:

1. Who is at least 16 1/2 years of age.

2. Who is of good moral character and temperate habits.

3. Who has graduated from a school of barbering approved by the ~~[Board.]~~ *Commission on Postsecondary Education.*

4. Who has passed an examination conducted by the Board to determine his fitness to practice as a licensed apprentice.

5. Who has had a chest X ray, the results of which indicate he is not tuberculous, and a blood test, the results of which indicate he is not a carrier of communicable diseases.

Sec. 7. NRS 643.085 is hereby amended to read as follows:

643.085 A person who:

1. Is licensed pursuant to the provisions of chapter 644 of NRS; and

2. Has completed 400 hours of specialized training at a barber school approved by the ~~[Board,]~~ *Commission on Postsecondary Education,*

➥ may take the examination for a license as a barber without being licensed as an apprentice.

Sec. 8. NRS 643.095 is hereby amended to read as follows:

643.095 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license as a barber ~~[,]~~ *or* an apprentice ~~[or an instructor]~~ shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license as a barber ~~[,]~~ *or* an apprentice ~~[or an instructor]~~ must submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license as a barber ~~[,]~~ *or* an apprentice ~~[or an instructor]~~ 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. 9. NRS 643.110 is hereby amended to read as follows:

643.110 1. Except as otherwise provided in subsection 2, an applicant for a license as a barber who fails to pass the examination conducted by the Board must continue to practice as a licensed apprentice for an additional 3 months before he may retake the examination for a license as a barber.

2. An applicant for a license as a barber who is a cosmetologist licensed pursuant to the provisions of chapter 644 of NRS and who fails to pass the examination conducted by the Board must complete further study as prescribed by the Board, not exceeding 250 hours, in a barber school approved by the ~~[Board]~~ *Commission on Postsecondary Education* before he may retake the examination for a license as a barber.

3. An applicant for a license as an apprentice who fails to pass the examination provided for in NRS 643.080 must complete further study as prescribed by the Board in a barber school approved by the ~~[Board]~~ *Commission on Postsecondary Education* before he may retake the examination for a license as an apprentice.

~~[4. An applicant for a license as an instructor who fails to pass the examination provided for in NRS 643.1775 must complete further study prescribed by the Board, not to exceed 250 hours, in a barber school approved by the Board before he may retake the examination for a license as an instructor.]~~

Sec. 10. NRS 643.150 is hereby amended to read as follows:

643.150 1. Each licensed barber and licensed apprentice shall display his license in a conspicuous place adjacent to or near his work chair.

2. A copy of the regulations adopted by the Board must be:

(a) Provided to the owner or manager of each barbershop *;* ~~[or barber school;]~~ and

(b) Displayed in a conspicuous place in the barbershop . ~~[or barber school.]~~

Sec. 11. NRS 643.188 is hereby amended to read as follows:

643.188 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 licensed as a barber ~~[,]~~ *or* an apprentice , ~~[or an instructor,]~~ 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 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. 12. NRS 643.200 is hereby amended to read as follows:

643.200 1. It shall be unlawful for any licensed barber or apprentice:

(a) Knowingly to continue the practice of barbering ~~[, or for any student knowingly to continue as a student in any barber school]~~ while the person has an infectious, contagious or communicable disease.

(b) To use upon one patron a towel that has been used upon another patron unless the towel has been relaundered.

(c) Not to provide the headrest on each chair with a relaundered towel or a sheet of clean paper for each patron.

(d) Not to place around the patron's neck a strip of cotton, towel or neckband so that the hair cloth does not come in contact with the neck or skin of the patron's body.

(e) To use in the practice of barbering any styptic pencils, finger bowls, sponges, lump alum or powder puffs. Possession of a styptic pencil, finger

bowl, sponge, lump alum or powder puff in a barbershop is prima facie evidence that the item is being used therein in the practice of barbering.

(f) To use on any patron any razors, scissors, tweezers, combs, rubber discs or parts of vibrators used on another patron, unless the items are kept in a closed compartment and immersed in boiling water or in a solution of 2 percent carbolic acid, or its equivalent, before each use.

2. It shall be unlawful to own, manage, control or operate any barbershop unless:

(a) Continuously hot and cold running water is provided.

(b) A recognized sign is displayed at the main entrance to the shop indicating that it is a barbershop.

Sec. 13. NRS 643.172, 643.173, 643.174, 643.175, 643.176, 643.177, 643.1775, 643.179 and 643.205 are hereby repealed.

Sec. 13.5. The Commission on Postsecondary Education shall, on or before October 1, 2009, adopt regulations to carry out the provisions of section 1.7 of this act and NRS 394.411, as amended by section 3.5 of this act relating to the licensure of barber schools and instructors.

Sec. 14. *1.* Any license to operate a barber school *and any license as an instructor* that was issued by the State Barbers' Health and Sanitation Board pursuant to chapter 643 of NRS before ~~[July 1, 2009,]~~ *the passage and approval of this act* shall be deemed to be a license to operate a barber school which was issued by the Commission on Postsecondary Education pursuant to the provisions of chapter 394 of NRS and which expires on the date on which the license to operate a barber school would have expired pursuant to the provisions of NRS 643.175. Such a license may be renewed on or before its expiration in accordance with the provisions of NRS 394.460 ~~[.]~~ *or section 1.7 of this act, as applicable.*

2. The Commission on Postsecondary Education may issue a provisional license to operate a barber school or a provisional license as an instructor to persons who apply for a license on or before October 1, 2009. A provisional license issued pursuant to this subsection expires on December 31, 2009.

Sec. 15. This act becomes effective ~~[on July 1, 2009.]~~ *upon passage and approval for purposes of adopting regulations and on October 1, 2009, for all other purposes.*

LEADLINES OF REPEALED SECTIONS

643.172 Operation of barber school without license unlawful.

643.173 Application for license; fee.

643.174 Personal appearance of applicant before Board; required information.

643.175 Fees; renewal of license.

643.176 Regulations; continuing education.

643.177 Conditions for operation of barber school: Signs; number of instructors; restrictions; charge for barbering services; waiver.

643.1775 Qualifications for license as instructor.

643.179 Notice and hearing.

643.205 Unlawful to instruct practice of barbering in barber school without license.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 552 to Senate Bill No. 393, as adopted by the committee, speaks to the number of apprentices that are allowed by a licensed barber. It also replaces that the instructors, they are licensed by the State Board of Barbers and Health Sanitation and not by the Commission on Postsecondary Education.

Amendment adopted.

The following amendment was proposed by Senator Wiener:

Amendment No. 543.

"SUMMARY—Revises provisions governing barber schools. (BDR 34-1223)"

"AN ACT relating to postsecondary education; transferring regulation of barber schools from the State Barbers' Health and Sanitation Board to the Commission on Postsecondary Education; *requiring boards of health to inspect barber schools;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ *Section 1 of this* bill transfers the responsibility for the licensing and regulation of barber schools from the State Barbers' Health and Sanitation Board to the Commission on Postsecondary Education. *Existing law prescribes the fee for obtaining a license to operate a barber school or as an instructor in a barber school. (NRS 643.175) Section 3.3 of this act provides that the same fee may be charged by the Commission on Postsecondary Education for such licensure.*

Section 3.5 of this bill requires the Health Division in counties whose population is less than 400,000 (currently counties other than Clark County) and the district board of health in counties whose population is 400,000 or more (currently Clark County) to inspect barber schools and prescribe regulations relating to the health and sanitation requirements for barber schools.

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

Section 1. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

"Barber school" means a school of barbering, college of barbering and any other place or institution of instruction training persons to engage in:

1. Shaving or trimming the beard, cutting or trimming the hair, or hair weaving.

2. Giving massages of the face or scalp or treatments with oils, creams, lotions or other preparations, by hand or mechanical appliances.

3. Singeing, shampooing or dyeing the hair, or applying hair tonics.

4. Applying cosmetic preparations, antiseptics, powders, oils or lotions to the scalp, face or neck.

5. Arranging, fitting, cutting, styling, cleaning, coloring or dyeing a hairpiece or wig, whether made of human hair or synthetic material.

Sec. 2. NRS 394.005 is hereby amended to read as follows:

394.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 394.006 to 394.112, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 394.099 is hereby amended to read as follows:

394.099 "Postsecondary educational institution" means an academic, vocational, technical, home study, business, professional or other school, college or university that is privately owned, *including, without limitation, a barber school,* or any person offering postsecondary education if he:

1. Is not licensed as a postsecondary educational institution in this state by a federal or another state agency;

2. Charges tuition, requires or requests donations or receives any consideration from a student for any portion of the instruction, including written or audiovisual material;

3. Educates or trains persons who are not his employees; and

4. Educates or trains, or claims or offers to educate or train, students in a program leading toward:

(a) Employment at a beginning or advanced level;

(b) Educational credentials;

(c) Credits that are intended to be applied toward an educational credential awarded in another state which does not require the person to obtain a majority of the credits required in that state; or

(d) Preparation for examinations for initial licensing in a profession or vocation.

➥ The term includes a branch or extension of a public or private postsecondary educational institution of another state that is located in this state or which offers educational services or education in this state. The term does not include an institution or person offering only educational services or programs at the introductory level on the use of computer software to persons who have purchased that software from the institution or person.

Sec. 3.3. NRS 394.540 is hereby amended to read as follows:

394.540 1. The fees imposed pursuant to this section must be collected by the Administrator and deposited in the State Treasury to the credit of the State General Fund, and no fees so collected are subject to refund.

2. The fees are:

(a) For a new license *, other than a license to operate a barber school or as an instructor in a barber school* $1,500

(b) For an application by an unlicensed out-of-state educational institution to employ agents in this state..... 1,000

(c) *For a new license to operate a barber school* *250*

(d) For the renewal of a license to operate a barber school..... *100*

(e) For a new license or the renewal of a license as an instructor in a barber school *250*

(f) For a change of ownership 750

~~[(d)]~~ *(g)* To add a new degree or vocational program 500

~~[(e)]~~ *(h)* For an initial agent's permit 200

~~[(f)]~~ *(i)* For the renewal of an agent's permit 100

~~[(g)]~~ *(j)* For a transcript of an academic record which is in the possession of the Administrator pursuant to NRS 394.550 5

3. In addition, the Administrator shall collect from each licensed postsecondary educational institution a fee of $4 for each student from which the institution has received tuition or registration fees. The institution shall collect this fee from each such student at the time of the student's initial enrollment with the institution. On or before the first day of January, April, July and October, the institution shall transmit to the Administrator the fees collected pursuant to this subsection during the preceding quarter. The Administrator shall deposit the fees so transmitted with the State Treasurer for credit to the State General Fund.

Sec. 3.5. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of health shall annually conduct an inspection of each barber school located in the jurisdiction of the board of health.

2. A health authority may enter and inspect any barber school at any time during business hours or at any time when the practice of barbering or instruction is being carried on.

3. The board of health shall adopt regulations for the inspection of barber schools, including, without limitation:

(a) Prescribing the minimum health and sanitation requirements for barber schools; and

(b) Requiring a barber school to pay to the board of health the actual cost of conducting such inspections.

4. As used in this section:

(a) "Barber school" has the meaning ascribed to it in section 1 of this act.

(b) "Board of health" means:

(1) In a county whose population is less than 400,000, the Health Division.

(2) In a county whose population is 400,000 or more, the district board of health.

(c) "Health authority" means the officers and agents of the board of health.

Sec. 4. NRS 643.010 is hereby amended to read as follows:

643.010 As used in this chapter, unless the context otherwise requires:

1. "Barber school" includes a school of barbering, college of barbering and any other place or institution of instruction training persons to engage in the practice of barbering.

2. "Barbershop" means any establishment or place of business where the practice of barbering is engaged in or carried on.

3. "Board" means the State Barbers' Health and Sanitation Board.

4. ~~["Instructor" means any person who is licensed by the Board pursuant to the provisions of this chapter to instruct the practice of barbering in a barber school.~~

~~5.]~~ "Licensed apprentice" means a person who is licensed to engage in the practice of barbering as an apprentice pursuant to the provisions of this chapter.

~~[6.]~~ *5.* "Licensed barber" means a person who is licensed to engage in the practice of barbering pursuant to the provisions of this chapter.

~~[7.]~~ *6.* "Practice of barbering" means any of the following practices for cosmetic purposes:

(a) Shaving or trimming the beard, cutting or trimming the hair, or hair weaving.

(b) Giving massages of the face or scalp or treatments with oils, creams, lotions or other preparations, by hand or mechanical appliances.

(c) Singeing, shampooing or dyeing the hair, or applying hair tonics.

(d) Applying cosmetic preparations, antiseptics, powders, oils or lotions to the scalp, face or neck.

(e) Arranging, fitting, cutting, styling, cleaning, coloring or dyeing a hairpiece or wig, whether made of human hair or synthetic material. This does not restrict any establishment from setting or styling a hairpiece or wig in preparation for retail sale.

~~[8. "Student" means a person receiving instruction in a barber school.]~~

Sec. 5. NRS 643.050 is hereby amended to read as follows:

643.050 1. The Board may:

(a) Maintain offices in as many locations in this State as it finds necessary to carry out the provisions of this chapter.

(b) Employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(c) Adopt regulations necessary to carry out the provisions of this chapter.

2. The Board shall prescribe, by regulation, sanitary requirements for barbershops . ~~[and barber schools.]~~

3. Any member of the Board or its agents or assistants may enter and inspect any barbershop ~~[or barber school]~~ at any time during business hours or at any time when the practice of barbering ~~[or instruction]~~ in that practice is being carried on.

4. The Board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension and revocation of licenses. The record must contain the name, place of business and residence of each licensed barber ~~[,]~~ *and* licensed apprentice ~~[and instructor,]~~ and the date and number of his license. The record must be open to public inspection at all reasonable times.

5. The Board may approve and, by official order, establish the days and hours when barbershops may remain open for business whenever agreements fixing such opening and closing hours have been signed and submitted to the Board by any organized and representative group of licensed barbers of at least 70 percent of the licensed barbers of any county. The Board may investigate the reasonableness and propriety of the hours fixed by such an agreement, as is conferred by the provisions of this chapter, and the Board may fix hours for any portion of a county.

~~[6. The Board may adopt regulations governing the conduct of barber schools and the course of study of barber schools.]~~

Sec. 6. NRS 643.080 is hereby amended to read as follows:

643.080 Any person is qualified to receive a license as an apprentice:

1. Who is at least 16 1/2 years of age.

2. Who is of good moral character and temperate habits.

3. Who has graduated from a school of barbering approved by the ~~[Board.]~~ *Commission on Postsecondary Education.*

4. Who has passed an examination conducted by the Board to determine his fitness to practice as a licensed apprentice.

5. Who has had a chest X ray, the results of which indicate he is not tuberculous, and a blood test, the results of which indicate he is not a carrier of communicable diseases.

Sec. 7. NRS 643.085 is hereby amended to read as follows:

643.085 A person who:

1. Is licensed pursuant to the provisions of chapter 644 of NRS; and

2. Has completed 400 hours of specialized training at a barber school approved by the ~~[Board,]~~ *Commission on Postsecondary Education,*

➥ may take the examination for a license as a barber without being licensed as an apprentice.

Sec. 8. NRS 643.095 is hereby amended to read as follows:

643.095 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license as a barber ~~[,]~~ *or* an apprentice ~~[or an instructor]~~ shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license as a barber ~~[,]~~ *or* an apprentice ~~[or an instructor]~~ must submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license as a barber ~~[,]~~ *or* an apprentice ~~[or an instructor]~~ 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. 9. NRS 643.110 is hereby amended to read as follows:

643.110 1. Except as otherwise provided in subsection 2, an applicant for a license as a barber who fails to pass the examination conducted by the Board must continue to practice as a licensed apprentice for an additional 3 months before he may retake the examination for a license as a barber.

2. An applicant for a license as a barber who is a cosmetologist licensed pursuant to the provisions of chapter 644 of NRS and who fails to pass the examination conducted by the Board must complete further study as prescribed by the Board, not exceeding 250 hours, in a barber school approved by the ~~[Board]~~ *Commission on Postsecondary Education* before he may retake the examination for a license as a barber.

3. An applicant for a license as an apprentice who fails to pass the examination provided for in NRS 643.080 must complete further study as prescribed by the Board in a barber school approved by the ~~[Board]~~ *Commission on Postsecondary Education* before he may retake the examination for a license as an apprentice.

~~[4. An applicant for a license as an instructor who fails to pass the examination provided for in NRS 643.1775 must complete further study prescribed by the Board, not to exceed 250 hours, in a barber school approved by the Board before he may retake the examination for a license as an instructor.]~~

Sec. 10. NRS 643.150 is hereby amended to read as follows:

643.150 1. Each licensed barber and licensed apprentice shall display his license in a conspicuous place adjacent to or near his work chair.

2. A copy of the regulations adopted by the Board must be:

(a) Provided to the owner or manager of each barbershop *;* ~~[or barber school;]~~ and

(b) Displayed in a conspicuous place in the barbershop . ~~[or barber school.]~~

Sec. 11. NRS 643.188 is hereby amended to read as follows:

643.188 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 licensed as a barber ~~[,]~~ *or* an apprentice *,* ~~[or an instructor,]~~ 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 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. 12. NRS 643.200 is hereby amended to read as follows:

643.200 1. It shall be unlawful for any licensed barber or apprentice:

(a) Knowingly to continue the practice of barbering ~~[, or for any student knowingly to continue as a student in any barber school]~~ while the person has an infectious, contagious or communicable disease.

(b) To use upon one patron a towel that has been used upon another patron unless the towel has been relaundered.

(c) Not to provide the headrest on each chair with a relaundered towel or a sheet of clean paper for each patron.

(d) Not to place around the patron's neck a strip of cotton, towel or neckband so that the hair cloth does not come in contact with the neck or skin of the patron's body.

(e) To use in the practice of barbering any styptic pencils, finger bowls, sponges, lump alum or powder puffs. Possession of a styptic pencil, finger bowl, sponge, lump alum or powder puff in a barbershop is prima facie evidence that the item is being used therein in the practice of barbering.

(f) To use on any patron any razors, scissors, tweezers, combs, rubber discs or parts of vibrators used on another patron, unless the items are kept in a closed compartment and immersed in boiling water or in a solution of 2 percent carbolic acid, or its equivalent, before each use.

2. It shall be unlawful to own, manage, control or operate any barbershop unless:

(a) Continuously hot and cold running water is provided.

(b) A recognized sign is displayed at the main entrance to the shop indicating that it is a barbershop.

Sec. 13. NRS 643.172, 643.173, 643.174, 643.175, 643.176, 643.177, 643.1775, 643.179 and 643.205 are hereby repealed.

Sec. 13.5. The district board of health located in a county whose population is 400,000 or more shall, on or before October 1, 2009, adopt

regulations to carry out the provisions of section 3.5 of this act relating to the inspections of barber schools.

Sec. 14. Any license to operate a barber school that was issued by the State Barbers' Health and Sanitation Board pursuant to chapter 643 of NRS before ~~[July 1, 2009,]~~ *the passage and approval of this act* shall be deemed to be a license to operate a barber school which was issued by the Commission on Postsecondary Education pursuant to the provisions of chapter 394 of NRS and which expires on the date on which the license to operate a barber school would have expired pursuant to the provisions of NRS 643.175. Such a license may be renewed on or before its expiration in accordance with the provisions of NRS 394.460.

Sec. 15. This act becomes effective ~~[on July 1, 2009.]~~ *upon passage and approval for purposes of adopting regulations and on October 1, 2009, for all other purposes.*

LEADLINES OF REPEALED SECTIONS

643.172 Operation of barber school without license unlawful.

643.173 Application for license; fee.

643.174 Personal appearance of applicant before Board; required information.

643.175 Fees; renewal of license.

643.176 Regulations; continuing education.

643.177 Conditions for operation of barber school: Signs; number of instructors; restrictions; charge for barbering services; waiver.

643.1775 Qualifications for license as instructor.

643.179 Notice and hearing.

643.205 Unlawful to instruct practice of barbering in barber school without license.

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. 543 to Senate Bill No. 393 provides for the same fee that is charged for barber school operator licenses to be charged by the Commission on Postsecondary Education. It also requires the Health Division, in counties under 400,000, and the Clark County Health authorities to inspect barber schools and prescribe regulations related to health and sanitation requirements. This includes annual inspections or on an as-needs basis.

SENATOR CARLTON:

I want to make sure that in moving this to the Commission on Postsecondary Education, and the fees that are to be included, I would want to have a level of comfort that the bonding component will be the same for these particular schools as it would be for other folks under Postsecondary Education.

SENATOR WIENER:

To my colleague who inquired about the security of the moneys invested by students in their education, I can speak from personal experience, as a former vice chair of the Post Secondary

Education Commission, that it is one of their top priorities to ensure that students find recovery when schools fold.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 397.

Bill read second time.

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

Amendment No. 427.

"SUMMARY—Establishes provisions relating to the use of certain plastic bags. (BDR ~~[52]~~ *40*-1143)"

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

"AN ACT relating to trade regulations; ~~[establishing a fund for environmental cleanup;]~~ imposing a fee, for a certain period, on the use of certain plastic bags; banning the use of certain plastic bags; authorizing certain inspections by local health authorities; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 3 of this bill establishes the Plastic Bag Environmental Cleanup Fund for the purpose of cleaning up the environment.]~~

Section 4 of this bill imposes a fee to be paid by a customer for the retailer's distribution of certain nonbiodegradable and noncompostable plastic bags to the customer between October 1, 2009, and June 30, ~~[2011.]~~ *2013*.

Section 5 of this bill imposes a ban, beginning July 1, ~~[2011,]~~ *2013*, on the distribution by a retailer of certain nonbiodegradable and noncompostable plastic bags to a customer and imposes *administrative* fines for violations of the ban.

Section 6 of this bill authorizes local health authorities to inspect retail establishments for the purposes of enforcing the ban.

Section 7 of this bill authorizes a local health authority to issue a citation for violations of the ban. Section 7 also sets forth the required contents of and means of appealing a citation.

Section 8 of this bill authorizes the Division of Environmental Protection of the State Department of Conservation and Natural Resources to collect payments which are in default in any manner provided by law for the enforcement of a judgment.

Section 10 of this bill authorizes the Division to award grants for projects for the cleanup of solid waste.

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

Section 1. Chapter ~~[597]~~ *444A* of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires:*

1. ~~["Administrator" means the Administrator of the Division.~~

~~2.]~~ "Checkout" means point of sale.

~~[3.]~~ 2. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

~~[4. "Fund" means the Plastic Bag Environmental Cleanup Fund created pursuant to section 3 of this act.~~

~~5.]~~ 3. "Health authority" means the officers and agents of the local boards of health.

~~[6.]~~ 4. "Plastic bag" means a bag composed of plastic, latex or polypropylene. The term does not include bags that are:

(a) Used to cover clothes which have been dry cleaned; or

(b) Composed of ~~[biodegradable or compostable plastic.~~

~~7.]~~ plastic which meets the current specifications of the American Society for Testing and Materials for biodegradability or compostability.

5. "Retail establishment" means any place, structure, premises, vehicle or vessel, or any part thereof, in which a retailer makes sales as described in subsection 8.

~~[8.]~~ 6. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

Sec. 3. *~~[1. The Plastic Bag Environmental Cleanup Fund is hereby created in the State Treasury.~~*

~~2. The Division shall administer the Fund for the purpose of cleaning the environment of this State.~~

~~3. Interest and income earned on the money in the Fund must be credited to the Fund.~~

~~4. Money remaining in the 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.~~

~~5. The Administrator shall adopt regulations establishing:~~

~~(a) Provisions the Administrator deems necessary for the administration and enforcement of sections 2 to 9, inclusive, of this act; and~~

~~*(b) The uses and methods of expenditure of money in the Fund.]*~~ *(Deleted by amendment.)*

Sec. 4. *1. A retailer who provides to a customer a plastic bag at checkout for the purpose of storing, carrying or transporting purchased goods shall collect from the customer a fee of 10 cents per plastic bag.*

2. The retailer shall account separately for all money owed to and held in trust for the ~~*[Division]*~~ *State pursuant to subsection 1. In accordance with the regulations adopted pursuant to this section* , ~~*[and subsection 5 of section 3 of this act,]*~~ *the retailer shall transmit 90 percent of the money held n trust pursuant to this subsection to the* ~~*[Division]*~~ *Department of Taxation for deposit* ~~*[in and]*~~ *with the State Treasurer for credit to the Solid Waste Management Account in the State General Fund. The remaining 10 percent and all interest and income which accrue on the money while in trust with the retailer become the property of the retailer on the day the balance for the month is transmitted to the Department of Taxation and may be retained by the retailer to cover his related administrative costs.*

3. The ~~*[Administrator]*~~ *Director of the Department of Taxation shall adopt regulations establishing acceptable methods for accounting for and transmitting to the* ~~*[Division]*~~ *Department money required to be paid by retailers pursuant to this section. The regulations must include a designation of the persons responsible for payment. The regulations must, in appropriate situations, allow for the transmission of that money together with the payment of the applicable sales and use taxes.*

4. In collecting the fee, the Department of Taxation may employ any administrative and legal powers conferred upon it for the collection of the sales and use taxes by chapters 360 and 372 of NRS.

Sec. 5. *1. A retailer shall not provide a plastic bag to a customer at checkout for the purpose of storing, carrying or transporting purchased goods.*

2. A retailer who violates the provisions of subsection 1 shall be punished:

(a) For the first violation, by an administrative fine of $250.

(b) For the second violation within 120 days after the first violation, by an administrative fine of $500.

(c) For the third or subsequent violation within 120 days after the first violation, by an administrative fine of $1,000.

3. Each day on which a violation occurs constitutes a separate violation.

4. All fines imposed pursuant to this section must be paid to the Division to be held in trust for the State. In accordance with the regulations adopted pursuant to subsection 5, the Division shall transmit the money held in trust pursuant to this subsection to the State Treasurer for deposit in and credit to the State General Fund.

5. The Division, in consultation with the State Treasurer, shall adopt regulations establishing acceptable methods for accounting for and

transmitting to the State Treasurer money required to be paid by the Division pursuant to this section.

Sec. 6. *1. At least once every year, the applicable health authority shall inspect each retail establishment located in the State.*

2. The health authority, after he has properly identified himself, must be permitted to enter, at any reasonable time, any retail establishment within the State for the purpose of making any inspection to determine compliance with the provisions of sections 2 to 9, inclusive, of this act. He must be permitted to examine the records of the retail establishment to obtain pertinent information pertaining to bags purchased, received or provided to customers of the retailer.

3. The health authority shall make as many additional inspections and reinspections as are necessary for the enforcement of sections 2 to 9, inclusive, of this act.

4. A person shall not interfere with the health authority in the performance of his duties pursuant to sections 2 to 9, inclusive, of this act.

Sec. 7. *1. If a health authority makes an inspection of a retail establishment and discovers that the provisions of sections 2 to 9, inclusive, of this act have been violated, he shall notify the retailer of the violation by means of a citation. The citation must:*

(a) Set forth the specific violation found; and

(b) State that an opportunity for appeal from the citation will be provided if a written request for a hearing is filed with the health authority within the period established in the citation.

2. A citation provided for in subsection 1 shall be deemed to have been properly served when the original of the citation has been delivered personally to the retailer or person in charge of the retail establishment, or the citation has been sent by registered or certified mail, return receipt requested, to the last known address of the retailer. A copy of the citation must be filed with the records of the health authority.

Sec. 8. *The Division may collect all payments due the Division pursuant to sections 2 to 9, inclusive, of this act which are in default, in any manner provided by law for the enforcement of a judgment.*

Sec. 9. *Nothing in sections 2 to 9, inclusive, of this act shall be construed as prohibiting a retailer from providing bags made of nonplastic materials to a customer at checkout.*

Sec. 10. *NRS 444A.110 is hereby amended to read as follows:*

444A.110 1. The Division shall develop a program of public education to provide information, increase public awareness of the individual responsibility of properly disposing of solid waste and encouraging public participation in recycling, reuse and waste reduction. The program must be designed in accordance with the plans to provide for a solid waste management system approved pursuant to NRS 444.510 to communicate the importance of conserving natural resources, in addition to the importance of protecting public health and the environment. The program must include

promotion of the private and public efforts to accomplish conservation, recovery and reuse.

2. The Division shall encourage the reduction of waste and litter by:

(a) Providing, upon request, advice to persons regarding techniques to reduce waste and general information on recycling.

(b) Establishing a computer database to process related information.

(c) Establishing a toll-free telephone line to assist in the dissemination of information.

(d) Sponsoring or cosponsoring technical workshops and seminars on waste reduction.

(e) Assisting local programs for the research and development of plans to reduce waste.

(f) Coordinating the dissemination of publications on waste reduction, regardless of the source of those publications.

(g) Assisting in the development and promotion of programs of continuing education for educators and administrators to enable them to teach and encourage methods of waste reduction.

(h) Developing an emblem to signify and advertise the efforts in Nevada to encourage recycling.

(i) Recommending to educational institutions courses and curricula relating to recycling and the reduction of waste.

(j) Assisting state agencies, upon request, to develop and carry out programs for recycling within state buildings.

(k) Encouraging the Nevada System of Higher Education to research and develop methods for the reduction, reclamation and conversion of solid waste, including, without limitation, encouraging the Nevada System of Higher Education to seek money from public and private sources for that purpose.

3. The Division shall coordinate the technical assistance available from the various state agencies. The Administrator of the Division shall prepare and deliver biennial reports to the Governor regarding the progress of the program.

4. The Division may award grants to municipalities, educational institutions and nonprofit organizations for projects that enhance solid waste management systems *, including, without limitation, projects for the cleanup of solid waste,* and promote the efficient use of resources. The Division shall consult a solid waste management authority before awarding a grant for a project within the jurisdiction of that solid waste management authority.

5. The State Environmental Commission shall adopt regulations governing the administration of grants awarded pursuant to subsection 4.

6. As used in this section, unless the context otherwise requires, "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

~~[Sec. 10.]~~ *Sec. 11.* 1. This section and sections 1 to 4, inclusive, and 6 to ~~[9,]~~ *10,* inclusive, of this act become effective on October 1, 2009.

2. Section 4 of this act expires by limitation on June 30, ~~[2011.]~~ *2013*.

3. Section 5 of this act becomes effective on July 1, ~~[2011.]~~ *2013*.

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. 427 to Senate Bill No. 397 removes reference to the Plastic Bag Environmental Cleanup Fund and instead requires fees for the provision of plastic bags to be transmitted to the Department of Taxation for credit in the Solid Waste Management Account. The amendment also extends the date for the imposition of a ban on noncompostable and nonbiodegradable plastic bags from July 1, 2011, to July 1, 2013. Further, the amendment authorizes the Division of Environmental Protection to award grants for projects for the cleanup.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Care moved that Senate Bill No. 397 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Horsford moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 2:43 p.m.

SENATE IN SESSION

At 2:48 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 283 be taken from the Second Reading File and placed on the bottom of the Second Reading File on the third agenda.

Motion carried.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 21, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 157, 388.

GARY GHIGGERI

Fiscal Analysis Division

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 154, 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*

Senator Horsford moved that the Senate recess until 5:30 p.m.

Motion carried.

Senate in recess at 2:50 p.m.

SENATE IN SESSION

At 7:15 p.m.

President Krolicki presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 21, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 202.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 267 declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

SECOND READING AND AMENDMENT

Senate Bill No. 154.

Bill read second time.

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

Amendment No. 375.

"SUMMARY—Revises provisions governing ~~[negotiations by certain employers with recognized employee organizations.]~~ *mandatory bargaining with employees of local government employers.* (BDR 23-779)"

"AN ACT relating to local government; expanding the subjects that are within the scope of mandatory bargaining; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain subjects are within the scope of mandatory bargaining between a local government employer and a recognized employee organization, whereas other subjects are reserved to the local government employer without negotiation. This bill ~~[: (1) makes policies for transfer and reassignment a subject within the scope of mandatory bargaining for all employees instead of just for teachers; and (2) further]~~ expands the scope of mandatory bargaining to include ~~[any matter significantly related to an enumerated subject within the scope of mandatory bargaining, but only upon written request from a recognized employee organization.]~~ *the methods for the payment and receipt of salaries, wages or other direct monetary compensation.* (NRS 288.150)

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

Section 1. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as *otherwise* provided in subsection 4, ~~[5,]~~ every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 ~~[described in subsections 2 and 3]~~ with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The ~~[Except as otherwise provided in subsection 3, the]~~ scope of mandatory bargaining is limited to:

(a) Salary or wage rates or other forms of direct monetary compensation ~~[.]~~ *and the methods for the payment and receipt of salaries, wages or other direct monetary compensation.*

(b) Sick leave.

(c) Vacation leave.

(d) Holidays.

(e) Other paid or nonpaid leaves of absence.

(f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days' work required of an employee in a work year.

(i) Discharge and disciplinary procedures.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

(q) Duration of collective bargaining agreements.

(r) Safety of the employee.

(s) Teacher preparation time.

(t) Materials and supplies for classrooms.

(u) The policies ~~[Policies]~~ for the transfer and reassignment of teachers. ~~[employees.]~~

(v) Procedures for reduction in workforce.

3. ~~[In addition to the subjects enumerated in subsection 2, a matter shall be deemed to be a mandatory subject of bargaining if:~~

~~(a) The matter is significantly related to one or more of the subjects enumerated in subsection 2; and~~

~~(b) The recognized employee organization, if any, for the appropriate bargaining unit submits to the applicable local government employer a~~

~~*written request asking that the matter be included within the scope of mandatory bargaining.*~~

~~*". The provisions of this subsection do not apply with respect to subject matters which are reserved to a local government employer without negotiation pursuant to subsection 4.*~~

~~*4.]*~~ Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the ~~*[The]*~~ right to hire, direct , ~~*[or]*~~ assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including , without limitation , workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. ~~*[5.]*~~ Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. ~~*[6.]*~~ The provisions of this chapter, including , without limitation , the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. ~~*[7.]*~~ This section does not preclude ~~[,]~~ *the local government employer from negotiating,* but this chapter does not require the local government employer to negotiate , subject matters enumerated in subsection 3 ~~*[4]*~~ which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining , but it is not required to negotiate those matters.

7. ~~*[8.]*~~ Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 2. ~~[NRS 288.200 is hereby amended to read as follows:~~

~~288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 , apply:~~

~~1. If:~~

~~(a) The parties have participated in mediation and , by April 1, have not reached agreement; or~~

~~(b) The bargaining unit represented by the employee organization contains fewer than 30 persons,~~

~~, either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for his findings and recommendations. His findings and recommendations are not binding on the parties except as provided in subsections 5, 6 and 9. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.~~

~~2. If the parties are unable to agree on an impartial fact finder within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.~~

~~3. The local government employer and employee organization each shall pay one half of the cost of fact finding. Each party shall pay its own costs of preparation and presentation of its case in fact finding.~~

~~4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report his findings and recommendations to the parties to the dispute within 30 days after the conclusion of the fact finding hearing.~~

~~5. The parties to the dispute may agree, before the submission of the dispute to fact finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.~~

~~6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 9 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact finding between these parties, the best interests of the State and all its [citizens,]~~ *residents*, ~~the potential fiscal effect both within and outside*

~~the political subdivision, and any danger to the safety of the people of the State or a political subdivision.~~

~~7. Except as otherwise provided in subsection 8, any fact finder, whether his recommendations are to be binding or not, shall base his recommendations or award on the following criteria:~~

~~(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.~~

~~(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, he shall use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and he shall consider whether the Board found that either party had bargained in bad faith.~~

~~→ The fact finder's report must contain the facts upon which he based his determination of financial ability to grant monetary benefits and his recommendations or award.~~

~~8. Any sum of money which is maintained in a fund whose balance is required by law to be:~~

~~(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or~~

~~(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,~~

~~→ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.~~

~~9. The issues which may be included in a panel's order pursuant to subsection 6 are:~~

~~(a) Those~~ [enumerated in subsection 2] ~~*described in subsections 2 and 3* of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and~~

~~(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.~~

~~→ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.~~] *(Deleted by amendment.)*

Sec. 3. This act becomes effective on July 1, 2009.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senators Woodhouse and Mathews.

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

SENATOR WOODHOUSE:

Amendment No. 375 makes various changes to Senate Bill No. 154 to remove provisions that would have expanded certain portions of the collective-bargaining statutes concerning local government employers and recognized employee organizations. The amendment also provides for additional bargaining authority concerning the methods of payment and receipt of direct compensation. Specifically, the amendment deletes the provision that would have made policies for transfer and reassignment apply within the scope of mandatory bargaining between all local government employers and recognized employee organizations. With this change, current collective-bargaining statutes will remain which limit such policies to public school teachers.

It deletes the portions of the bill that would have expanded mandatory bargaining to include any matter significantly related to the subjects listed within the scope of mandatory bargaining, if requested in writing by a recognized employee organization. It clarifies that the scope of mandatory bargaining with regard to salary or wages, or other forms of direct monetary compensation must also include the method of payment and receipt of that compensation.

SENATOR MATHEWS:

Does this amendment include the debit card for paycheck?

SENATOR WOODHOUSE:

This amendment does take care of the issue that came in front of the committee regarding one employer that was paying employees with a debit card. This takes care of that. If this passes, that would be a subject of collective bargaining under wages and benefits.

SENATOR MATHEWS:

But the provision is in there for debit card.

SENATOR WOODHOUSE:

What it means is that the employee group and the employer would negotiate that while they are negotiating wages and benefits. From the testimony, I doubt that many employers will ever do this again. It would be an item of bargaining at the table.

SENATOR MATHEWS:

This does not make me comfortable.

Amendment adopted.

The following amendment was proposed by Senators Horsford, Care, Carlton, Coffin, Copening, Lee, Parks, Schneider, Wiener and Woodhouse:

Amendment No. 565.

"SUMMARY—Revises provisions governing ~~[negotiations by]~~ *employment practices of* certain *governmental* employers *.* ~~[with recognized employee organizations.]~~ (BDR 23-779)"

"AN ACT relating to ~~[local government ; expanding]~~ *governmental employment; revising requirements for the transfer of certain state employees; revising provisions governing* the subjects that are within the scope of mandatory bargaining; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires a state government employer to meet with a permanent classified employee or the representative of the employee, if any, before transferring the employee from one position to another position to determine the reason for the transfer and whether the transfer is in the best interest of the employee and the employer.

Under existing law, certain subjects are within the scope of mandatory bargaining between a local government employer and a recognized employee organization, whereas other subjects are reserved to the local government employer without negotiation. This bill ~~[: (1) makes policies for transfer and reassignment a subject within the scope of mandatory bargaining for all employees instead of just for teachers ; and (2) further]~~ *requires that a representative of a local government employer meet with a representative of the recognized employee organization before an employee, other than a teacher, is transferred to determine the reason for the transfer and whether the transfer is in the best interest of the employee and the employer. This bill also* expands the scope of mandatory bargaining to include any matter significantly related to an enumerated subject within the scope of mandatory bargaining, but only upon written request from a recognized employee organization. (NRS 288.150)

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

Section 1. *Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:*

Before a permanent classified employee may be transferred from one position to another position, a representative of the employer must meet with the employee or a representative of the employee, if any, to determine the reason for the transfer and whether the transfer is in the best interest of the employee and the employer.

Sec. 2. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as *otherwise* provided in subsection ~~[4,]~~ *5,* every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining ~~[set forth in subsection 2]~~ *described in subsections 2 and 3* with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* scope of mandatory bargaining is limited to:

(a) Salary or wage rates or other forms of direct monetary compensation.

(b) Sick leave.

(c) Vacation leave.

(d) Holidays.

(e) Other paid or nonpaid leaves of absence.

(f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days' work required of an employee in a work year.

(i) Discharge and disciplinary procedures.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

(q) Duration of collective bargaining agreements.

(r) Safety of the employee.

(s) Teacher preparation time.

(t) Materials and supplies for classrooms.

(u) The policies ~~*[Policies]*~~ for the transfer and reassignment of teachers. ~~*[employees.]*~~

(v) Procedures for reduction in workforce.

3. *In addition to the subjects enumerated in subsection 2, a matter shall be deemed to be a mandatory subject of bargaining if:*

(a) The matter is significantly related to one or more of the subjects enumerated in subsection 2; and

(b) The recognized employee organization, if any, for the appropriate bargaining unit submits to the applicable local government employer a written request asking that the matter be included within the scope of mandatory bargaining.

➥ *The provisions of this subsection do not apply with respect to subject matters which are reserved to a local government employer without negotiation pursuant to subsection 4.*

4. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the ~~*[The]*~~ right to hire, direct , ~~*[or]*~~ assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline. *Before an employee may be transferred pursuant to this paragraph, a representative of the local government employer must meet with a representative of the recognized employee organization to determine the reason for the transfer and whether the transfer is in the best interest of the employee and the local government employer.*

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including , without limitation , workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

~~[4.]~~ *5.* Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

~~[5.]~~ *6.* The provisions of this chapter, including , without limitation , the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

~~[6.]~~ *7.* This section does not preclude ~~[,]~~ *the local government employer from negotiating,* but this chapter does not require the local government employer to negotiate , subject matters enumerated in subsection ~~[3]~~ *4* which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining , but it is not required to negotiate those matters.

~~[7.]~~ *8.* Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

~~[Sec. 2.]~~ *Sec. 3.* NRS 288.200 is hereby amended to read as follows:

288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 , apply:

1. If:

(a) The parties have participated in mediation and , by April 1, have not reached agreement; or

(b) The bargaining unit represented by the employee organization contains fewer than 30 persons,

➥ either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for his findings and recommendations. His findings and recommendations are not binding on the parties except as provided in subsections 5, 6 and 9. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

2. If the parties are unable to agree on an impartial fact finder within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from this list by alternately striking one name until the name of only one fact finder remains, who will be

the fact finder to hear the dispute in question. The employee organization shall strike the first name.

3. The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact-finding.

4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report his findings and recommendations to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.

5. The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 9 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact-finding between these parties, the best interests of the State and all its ~~[citizens,]~~ *residents*, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.

7. Except as otherwise provided in subsection 8, any fact finder, whether his recommendations are to be binding or not, shall base his recommendations or award on the following criteria:

(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, he shall use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and he shall consider whether the Board found that either party had bargained in bad faith.

➥ The fact finder's report must contain the facts upon which he based his determination of financial ability to grant monetary benefits and his recommendations or award.

8. Any sum of money which is maintained in a fund whose balance is required by law to be:

(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or

(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,

➥ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.

9. The issues which may be included in a panel's order pursuant to subsection 6 are:

(a) Those ~~[enumerated in subsection 2]~~ *described in subsections 2 and 3* of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and

(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.

➥ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.

~~[Sec. 3.]~~ *Sec. 4.* This act becomes effective on July 1, 2009.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford and Raggio.

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

SENATOR HORSFORD:

This amendment provides for a meet-and-confer requirement for all public employees in Nevada prior to transfer. The employer would be required to meet with an employee prior to his or her transfer. The purpose of the amendment is when an employee is transferred his or her life may be disrupted and the family could be affected. With the cuts that are being made to the salaries and benefits of public employees, this amendment shows good faith to the employees of the State of Nevada. It is an issue of fairness, professionalism and respect and we owe it to the working families of Nevada. I urge the adoption of Amendment No. 565.

SENATOR RAGGIO:

The amendment we just adopted preserves the situation with NRS Chapter 288, collective bargaining, and for a good reason. The existing law allows only collective bargaining on transfers involving teachers. For other public sector employees, transfers are not subject to bargaining, and that is for a good reason. It is often essential to make these changes on short notice.

While I respect the comments, what concerns me is that this is a "backdoor" going through NRS Chapter 284 which is a restriction or limitation on the ability of a local government or public sector to transfer someone. I am concerned because the language says, "must meet … to determine the reason and whether the transfer is in the best interest of the employee and the employer." It seems that it will open a door for litigation where a suit would be brought by a representative of the employee and the argument would be whether or not the local government or the public sector employer had established that it is in the best interest of both the employee

and the employer to make the transfer. This opens the door to vexatious litigation, which defeats the reason why in the past we have not placed the transfers other than for teachers under collective bargaining. For that reason, I oppose this amendment.

SENATOR HORSFORD:

This proposed amendment is a revision to Chapter 284 not of Chapter 288. As the amendment explains, it would be for permanent, classified employees if they were recommended for transfer. With this, they would be eligible to meet with their employer to understand the reason for the transfer. Based on complaints and well-documented issues, we have public employees who on Friday at 5:00 p.m. have been told to report to a new location on Monday. That affects the quality of life for that employee. With all the sacrifices that we are being asked to have public employees make this Session, this amendment simply provides a little bit of fairness and a little bit of balance in that process. There is nothing in the amendment that opens up for arbitration or anything like that, it is simply for the employer to meet with the employee, to determine the reason for the transfer and that; it is in the best interest of the employee and the employer. That is a reasonable threshold that our public sector should be able to make for the goodwill of the employees we ask to work on our behalf.

Senators Amodei, Raggio and Nolan requested a roll call vote on the adoption of the amendment.

Roll call on Senator Horsford's motion:

YEAS—12.

NAYS—Amodei, Cegavske, Hardy, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington—9.

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

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 202.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 264.

"SUMMARY—Provides the legislative approval required for an increase in the tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005. (BDR S-452)"

"AN ACT relating to taxation; providing the legislative approval required for an increase in the tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of County Commissioners of Clark County to impose a sales and use tax in that county of one-quarter of 1 percent to employ and equip additional police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department, and allows the imposition of an increase in that tax of not more than one-quarter of 1 percent if the date on which the increased rate is first imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate. (Clark County Sales and Use Tax Act of 2005) This bill provides the legislative approval required for *the imposition*

of half of that increase ~~[.]~~ *on or after July 1, 2011, and for the imposition of the remaining half of that increase on or after July 1, 2013.*

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

Section 1. *1.* ~~[The]~~ *In addition to the increase authorized by subsection 2, the* Legislature hereby approves of an increase, pursuant to paragraph (b) of subsection 1 of section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, in the rate of the tax imposed pursuant to that Act in the amount of ~~[one-quarter]~~ *one-eighth* of 1 percent, if:

~~[1.]~~ *(a)* The increase *authorized by this subsection* is enacted by the Board of County Commissioners of Clark County after ~~[the effective date of this act;]~~ *October 1, 2009;* and

~~[2.]~~ *(b)* The date on which ~~[the]~~ *that* increased rate is first imposed is on or after ~~[October 1, 2009.]~~ *July 1, 2011.*

2. In addition to the increase authorized by subsection 1, the Legislature hereby approves of an increase, pursuant to paragraph (b) of subsection 1 of section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, in the rate of the tax imposed pursuant to that Act in the amount of one-eighth of 1 percent, if:

(a) The increase authorized by this subsection is enacted by the Board of County Commissioners of Clark County after October 1, 2009; and

(b) The date on which that increased rate is first imposed is on or after July 1, 2013.

Sec. 2. ~~[This act becomes effective upon passage and approval.]~~ *(Deleted by amendment.)*

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 delays the implementation of the sales tax increase which was approved by the voters of Clark County for two more years and splits the 0.25-cent sales tax into a 0.125-cent tax to be implemented in 2011 and another 0.125-cent tax to be implemented in 2013. It also changes the effective date making it affective on October 1 rather than passage and approval.

Amendment adopted.

The following amendment was proposed by Senator Horsford:

Amendment No. 557.

"SUMMARY—Provides the legislative approval required for an increase in the tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005. (BDR S-452)"

"AN ACT relating to taxation; providing the legislative approval required for an increase in the tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005; *making an appropriation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of County Commissioners of Clark County to impose a sales and use tax in that county of one-quarter of 1 percent to employ and equip additional police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department, and allows the imposition of an increase in that tax of not more than one-quarter of 1 percent if the date on which the increased rate is first imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate. (Clark County Sales and Use Tax Act of 2005) ~~[This]~~ *Section 1 of this* bill provides the legislative approval required for that increase. *Section 2 of this bill makes an appropriation of $25,000 to the Interim Finance Committee for allocation to the Legislative Auditor for the purpose of covering the cost of conducting an audit of the imposition of the tax and expenditure of the proceeds of the tax.*

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

Section 1. The Legislature hereby approves of an increase, pursuant to paragraph (b) of subsection 1 of section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, in the rate of the tax imposed pursuant to that Act in the amount of one-quarter of 1 percent, if:

1. The increase is enacted by the Board of County Commissioners of Clark County after the effective date of this act; and

2. The date on which the increased rate is first imposed is on or after October 1, 2009.

Sec. 2. 1. There is hereby appropriated from the State General Fund to the Audit Division of the Legislative Counsel Bureau the sum of $25,000 for an audit of the expenditure of the proceeds of the tax imposed pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, 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 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

~~[Sec. 2.]~~ *Sec. 3.* This act becomes effective upon passage and approval.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

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

Senator Horsford requested this amendment because he feels that there is a need for a careful look at the expenditure of the funds that have been raised through the existing sales tax. For that reason, there is an audit contemplated to be conducted by the Legislative Counsel Bureau. An appropriation of $25,000 is contained in this amendment, and upon completion of this amendment, we hope to refer it to the Senate Committee on Finance.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Care moved that Senate Bill No. 202 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senate Bill No. 210.

Bill read second time.

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

Amendment No. 384.

"SUMMARY—Makes various changes to the provisions governing the disposition and reporting of campaign contributions. (BDR 24-582)"

"AN ACT relating to campaign finance; requiring certain persons to submit proof of how they disposed of unspent campaign contributions; requiring candidates to report the annual balance of their campaign accounts; revising the ~~[available options for]~~ *provisions governing* the disposition of unspent campaign contributions; ~~[requiring candidates who do not appear on an election ballot within a certain period to dispose of their unspent campaign contributions;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the disposition of and reporting on the disposition of unspent campaign contributions. (NRS 294A.160, 294A.200, 294A.420) Section 1 of this bill requires a person who disposes of unspent campaign contributions to submit a separate report that includes proof, as prescribed by the Secretary of State, that the recipients of unspent campaign contributions actually received the money. Pursuant to section 4 of this bill, a person who fails to file the report required by section 1 is subject to certain civil penalties.

Section 2 of this bill requires all candidates to indicate on their annual contribution and expenditure reports the balance remaining in their campaign accounts as of the end of the calendar year or the date the account was closed. (NRS 294A.120)

Section 3 of this bill revises the provisions governing the disposition of unspent campaign contributions to: (1) require persons who become candidates *for an office* but ~~[do not appear on an election ballot within a certain period]~~ *who withdraw their candidacy before the election or are not otherwise candidates for that office at the election or who are defeated at the election* to dispose of their unspent campaign contributions ~~[;]~~ *within the specified period, regardless of whether they become candidates after that*

election; and (2) authorize the disposition of unspent campaign contributions by donation to the State Distributive School Account or to a county school district fund . ~~[; and (3) limit the amount of unspent campaign contributions of an unsuccessful candidate or a former public officer that may be donated to persons or groups advocating the passage or defeat of ballot questions.]~~ (NRS 294A.160)

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

Section 1. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who disposes of unspent campaign contributions pursuant to NRS 294A.160 shall file a report which includes proof that the recipients of the unspent campaign contributions have actually received the money.

2. The proof required pursuant to subsection 1 ~~[must]~~ may include, without limitation, a cancelled check, receipt or other proof of payment, as prescribed by the Secretary of State.

3. The report must be completed on a form designed and provided by the Secretary of State. The form must be signed by the person under penalty of perjury.

4. The report must be filed:

(a) With the officer with whom the person filed his declaration of candidacy or acceptance of candidacy. A person may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(1) On the date it was mailed, if it was sent by certified mail; or

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

(b) Not later than 60 days after the date that the person is required to dispose of his unspent campaign contributions pursuant to NRS 294A.160.

5. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

6. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.

Sec. 2. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 he received during the period and contributions received during the period from a contributor which cumulatively exceed $100 ~~[.]~~ , *and the balance in his account for the deposit of campaign contributions as of December 31 or the date the account was closed.* The provisions of this subsection apply to the candidate beginning the year of the general election

for that office through the year immediately preceding the next general election for that office.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each campaign contribution in excess of $100 he receives during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each campaign contribution in excess of $100 he received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 he received during the period and contributions received during the reporting period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to

NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall list each of the campaign contributions that he receives on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) A district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign contributions must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

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

7. Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after he receives the report.

8. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 3. NRS 294A.160 is hereby amended to read as follows:

294A.160 1. It is unlawful for a candidate to spend money received as a campaign contribution for his personal use.

2. Every candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election who is elected to that office and received contributions that were not spent or committed for expenditure before the primary, general, primary city, general city or special election shall:

(a) Return the unspent money to contributors;

(b) Use the money in his next election or for the payment of other expenses related to public office or his campaign, regardless of whether he is a candidate for a different office in his next election;

(c) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party;

(3) A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot; or

(4) Any combination of persons or groups set forth in subparagraphs (1), (2) and (3);

(d) Donate the money to any tax-exempt nonprofit entity; ~~[or]~~

(e) *Donate the money to the State Distributive School Account in the State General Fund or to any county school district fund; or*

(f) Dispose of the money in any combination of the methods provided in paragraphs (a) to ~~[(d),]~~ *(e),* inclusive.

3. Every candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election who *withdraws his candidacy before the election or is not otherwise a candidate for that office at the election or who* is not elected to that office and received contributions that were not spent or committed for expenditure before the primary, general, primary city, general city or special election shall, not later than the 15th day of the second month after ~~[his defeat,]~~ *the date of the election for which he withdrew his candidacy or was not otherwise a candidate for the office or at which he was defeated, regardless of whether he becomes a candidate after that election:*

(a) Return the unspent money to contributors;

(b) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party;

(3) A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot ; ~~*[, except that the contribution to any one such person or group must not exceed $10,000;]*~~ or

(4) Any combination of persons or groups set forth in subparagraphs (1), (2) and (3);

(c) Donate the money to any tax-exempt nonprofit entity; ~~[or]~~

(d) *Donate the money to the State Distributive School Account in the State General Fund or to any county school district fund; or*

(e) Dispose of the money in any combination of the methods provided in paragraphs (a) ~~[, (b) and (c).]~~ *to (d), inclusive.*

4. Every candidate for a state, district, county, city or township office who is defeated at a primary or primary city election and received a contribution from a person in excess of $5,000 shall, not later than the 15th day of the second month after his defeat, return any money in excess of $5,000 to the contributor.

5. ~~*[A person who qualifies as a candidate in accordance with the definition set forth in subsection 4 of NRS 294A.005 by receiving campaign*~~

~~*contributions in excess of $100 but who, within 4 years after the qualifying event, does not:*~~

~~*(a) File a declaration or acceptance of candidacy; or*~~

~~*(b) Appear on a ballot as a candidate for office,*~~

~~➥ *shall, not later than the 15th day of the month after the end of the 4-year period, dispose of any unspent contributions in the manner provided in subsection 3.*~~

~~*6.]*~~ Every public officer who:

(a) Holds a state, district, county, city or township office;

(b) Does not run for reelection and is not a candidate for any other office; and

(c) Has contributions that are not spent or committed for expenditure remaining from a previous election,

➥ shall, not later than the 15th day of the second month after the expiration of his term of office, dispose of those contributions in the manner provided in subsection 3.

6. ~~*[7.]*~~ In addition to the methods for disposing the unspent money set forth in subsections 2, 3 and 4, ~~*[to 5, inclusive,]*~~ a Legislator may donate not more than $500 of that money to the Nevada Silver Haired Legislative Forum created pursuant to NRS 427A.320.

7. ~~*[8.]*~~ Any contributions received before a candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election dies that were not spent or committed for expenditure before the death of the candidate must be disposed of in the manner provided in subsection 3.

8. ~~*[9.]*~~ The court shall, in addition to any penalty which may be imposed pursuant to NRS 294A.420, order the candidate or public officer to dispose of any remaining contributions in the manner provided in this section.

9. ~~*[10.]*~~ As used in this section, "contributions" include any interest and other income earned thereon.

Sec. 4. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.283, 294A.286, 294A.360 or 294A.377 *or section 1 of this act* has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.283, 294A.286, 294A.300, 294A.310, 294A.360 or 294A.377 *or section 1 of this act* is subject to a civil penalty of not more than $5,000 for each violation and payment of court costs and

attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, $25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.

(c) If the report is more than 15 days late, $100 for each day the report is late.

➥ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 5. A person who:

1. Was a candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election held before October 1, 2009;

2. Withdrew his candidacy or was not otherwise a candidate for that office at that election or was not elected to that office; and

3. Received contributions that were not spent or committed for expenditure before that election,

➥ shall, on or before December 1, 2009, dispose of those unspent campaign contributions in the manner set forth in subsection 3 of NRS 294A.160, as amended by section 3 of this act, regardless of whether he became a candidate after that election.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee and Carlton.

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

SENATOR LEE:

Amendment No. 384 makes several changes to Senate Bill No. 210 to address concerns about current interpretations of the law concerning the disposition of unspent campaign contributions. The amendment clarifies documentation for the disposition of unspent funds.

Specifically, the amendment clarifies that the proof of receipt of unspent campaign funds as required in the bill does not have to include all of the items specified. It requires that persons who become candidates, but who withdraw from candidacy or those who are not otherwise candidates for that office or were defeated, must dispose of their unspent campaign contributions as currently prescribed by law. This requirement includes elected officials who were termed out of office and deletes provisions in the bill which would have limited the amount of unspent campaign contributions that could be donated to groups or persons actively supporting or opposing ballot questions.

SENATOR CARLTON:

I would like more specific information on the component that would deal with those of us who are about to term-limited out. What will we be required to do with the money that is left in that account?

SENATOR LEE:

That is not part of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 286.

Bill read second time.

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

Amendment No. 226.

"SUMMARY—Establishes provisions relating to early intervention services. (BDR 40-637)"

"AN ACT relating to children; ~~[requiring]~~ *designating* the Health Division of the Department of Health and Human Services ~~[, within the limits of available money, to adopt a policy for the provision of]~~ *as the agency to cooperate with the federal authorities to administer* early intervention services ~~[, including a schedule of fees for those]~~ *; requiring the Legislative Auditor to conduct an audit of programs of early intervention* services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Federal law authorizes states to provide early intervention services to infants and toddlers with disabilities or who are at risk of experiencing substantial developmental delays and provides grants to states that provide such services. (20 U.S.C. §§ 1431 et seq.) The Health Division of the Department of Health and Human Services makes provision for early intervention services to infants and toddlers in this State through its Bureau of Early Intervention Services. ~~[Existing administrative regulations of the State Board of Health require the Health Division to charge and collect fees for early intervention services provided to an infant or toddler with a disability. Those fees may be developed on a sliding fee schedule. (NAC 442.210) This]~~ *Section 1 of this* bill ~~[requires]~~ *designates* the Health

Division ~~[, within the limits of available money, to adopt and implement a policy]~~ *as the agency in this State to cooperate with the Federal Government* for the provision of early intervention services to infants and toddlers with disabilities. ~~[This bill also requires the State Board to establish fees for early intervention services, taking into account the financial circumstances of each family. The Health Division is required to charge and collect the fees in accordance with the schedule established by the State Board.]~~ *Section 1 also prescribes certain requirements for providing those services.*

Section 2 of this bill requires the Legislative Auditor to conduct an audit of early intervention services provided by the Health Division and to submit a report of the audit to the Legislative Commission's Audit Subcommittee and to the Health Division not later than February 7, 2011.

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Within the limits of available money, the Health Division shall adopt and implement a policy for the provision of early intervention services to infants and toddlers with disabilities which is in compliance with the provisions]~~ The Department, through the Health Division, is hereby designated as the agency of this State to cooperate with the duly constituted federal authorities in the administration of Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., which relates to the provision of early intervention services to infants and toddlers with disabilities and their families.

2. ~~[The State Board of Health shall establish a schedule of fees for all early intervention services provided pursuant to this section. The schedule of fees:~~

~~(a) Must establish fees for early intervention services provided directly to an infant or toddler with a disability, including services identified in the individualized family service plan prepared for the family;~~

~~(b) Must not require a fee for indirect services provided by the Health Division or services for which a fee may not be charged pursuant to federal law, including, without limitation, for evaluations, assessments or the development of the individualized family service plan; and~~

~~(c) Must provide a graduated schedule of fees which accounts for the financial circumstances of each family receiving early intervention services, including, without limitation, the income, size and special circumstances of the family.~~

~~3. The Health Division shall charge and collect fees in accordance with the schedule of fees established pursuant to subsection 2. The schedule of fees must be posted at each location of the Health Division in which early intervention services are provided and on the Internet website maintained by the Health Division.]~~ The Department, through the Health Division, shall ensure that the services provided pursuant to this section:

(a) Enhance the development of infants and toddlers with disabilities;

(b) Reduce the need for special services, including, without limitation, special education and related services, for infants and toddlers with disabilities after they attain 3 years of age;

(c) Increase the likelihood that infants and toddlers with disabilities will live independently in the community when they become adults and not require institutional care;

(d) Enhance the capacity of families of infants and toddlers with disabilities to meet the needs of those infants and toddlers;

(e) Strengthen and promote the ability of families to determine the most appropriate use of resources to address the unique needs of those families and empower families to make such determinations; and

(f) Enhance the capacity of the State, local governments and other providers of early intervention services to identify, evaluate and meet the needs of infants and toddlers with disabilities from underserved populations and areas, including, without limitation, ethnic minorities, low-income families and rural areas of this State.

3. The Department shall provide early intervention services to infants and toddlers with disabilities and their families through the direct provision of services by the Health Division and through the use of other providers of early intervention services that the Department determines are qualified to provide those services.

4. The Department, through the Health Division ~~[may]~~ , shall request that a family authorize the Health Division to bill the health insurer of the family to pay for services. The Health Division shall not discriminate against or otherwise reduce services provided to a family if the family declines to have its health insurer billed by the Health Division.

5. ~~[The State Board of Health may adopt regulations to carry out the provisions of this section.~~

~~6. The Legislative Auditor shall annually evaluate the early intervention services provided by the Health Division and report his findings to the Legislative Commission or the Audit Subcommittee of the Legislative Commission.~~

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

(a) "Early intervention services" has the meaning ascribed to it in 20 U.S.C. § 1432.

(b) "Infant or toddler with a disability" has the meaning ascribed to it in 20 U.S.C. § 1432.

Sec. 2. 1. The Legislative Auditor shall conduct a performance audit of the early intervention services provided by the Health Division of the Department of Health and Human Services.

2. The audit must include, without limitation, an analysis of:

(a) The sources and uses of money in providing early intervention services;

(b) The cost of administering the provision of early intervention services; and

(c) The validity and reliability of data used in measuring the performance of programs of early intervention services.

3. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011. A copy of the final written report must be provided to the Health Division not later than February 7, 2011.

4. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit conducted pursuant to this section.

5. The Health Division shall use the results of the audit to improve the efficiency and effectiveness of early intervention services provided by the Health Division and any other provider of early intervention services and to identify additional funding sources for early intervention services.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

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

Amendment No. 226 to Senate Bill No. 286 specifies that the Health Division is the agency in Nevada designated to cooperate with the federal government for the provision of early intervention services to infants and toddlers with disabilities.

It specifies that services must be provided through direct services by the Health Division and through the use of other providers of early intervention services that the Department of Health and Human Services determines are qualified to provide those services.

Finally, the Legislative Auditor is required to conduct an audit of early intervention services provided by the Health Division and to submit a report to the Legislative Commission's Audit Subcommittee and the Health Division no later than February 7, 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 283.

Bill read second time.

The following amendment was proposed by Commerce and Labor:

Amendment No. 528.

"SUMMARY—Revises provisions governing the rights of domestic partners. (BDR 11-1100)"

"AN ACT relating to domestic relations; providing for the registration and dissolution of domestic partnerships in the State of Nevada; setting forth the rights and responsibilities attendant to such partnerships; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes a domestic partnership as a new type of civil contract recognized in the State of Nevada. Under the provisions of this bill, *with certain exceptions,* domestic partners have the same rights, protections, benefits, responsibilities, obligations and duties as do parties to any other civil contract created pursuant to title 11 of NRS. This bill also clarifies that a

domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.

Section 8 of this bill sets forth that no public employer in this State is required to provide health care benefits to or for the domestic partner of an officer or employee. Section 8 also clarifies that any public or private employer in this State may voluntarily provide health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.

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

Section 1. Title 11 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~[11,]~~ *12*, inclusive, of this act.

Sec. 2. *This chapter may be cited as the Nevada Domestic Partnership Act.*

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

Sec. 4. *"Domestic partners" means persons who:*

1. Have registered a valid domestic partnership pursuant to section 6 of this act; and

2. Have not terminated that domestic partnership pursuant to section ~~[8]~~ 9 of this act.

Sec. 5. *"Domestic partnership" means the social contract between two persons that is described in section 6 of this act.*

Sec. 6. *1. A valid domestic partnership is registered in the State of Nevada when two persons who satisfy the requirements of subsection 2:*

(a) File with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that both persons:

(1) Have chosen to share one another's lives in an intimate and committed relationship of mutual caring; and

(2) Desire of their own free will to enter into a domestic partnership; and

(b) Pay to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of an amount set by the Secretary of State to estimate:

(1) The cost incurred by the Secretary of State to issue the Certificate described in subsection 3; and

(2) Any other associated administrative costs incurred by the Secretary of State.

2. To be eligible to register pursuant to subsection 1, two persons desiring to enter into a domestic partnership must furnish proof satisfactory to the Office of the Secretary of State that:

(a) Both persons have a common residence;

(b) Neither person is married or a member of another domestic partnership;

(c) The two persons are not related by blood in a way that would prevent them from being married to each other in this State;

(d) Both persons are at least 18 years of age; and

(e) Both persons are competent to consent to the domestic partnership.

3. The Office of the Secretary of State shall issue a Certificate of Registered Domestic Partnership to persons who satisfy the requirements of this section.

4. As used in this section:

(a) "Common residence" means a residence shared by both domestic partners on at least a part-time basis, irrespective of whether:

(1) Ownership of the residence or the right to occupy the residence is in the name of only one of the domestic partners; and

(2) One or both of the domestic partners owns or occupies an additional residence.

(b) "Residence" means any house, room, apartment, tenement or other building, vehicle, vehicle trailer, semitrailer, house trailer or boat designed or intended for occupancy as a residence.

Sec. 7. *1. Except as otherwise provided in section 8 of this act:*

(a) Domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon spouses.

~~[2.]~~ *(b) Former domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon former spouses.*

~~[3.]~~ *(c) A surviving domestic partner, following the death of the other partner, has the same rights, protections and benefits, and is subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.*

~~[4.]~~ *(d) The rights and obligations of domestic partners with respect to a child of either of them are the same as those of spouses. The rights and obligations of former or surviving domestic partners with respect to a child of either of them are the same as those of former or surviving spouses.*

~~[5.]~~ *(e) To the extent that provisions of Nevada law adopt, refer to or rely upon provisions of federal law in a way that otherwise would cause domestic partners to be treated differently from spouses, domestic partners must be treated by Nevada law as if federal law recognized a domestic partnership in the same manner as Nevada law.*

~~[6.]~~ (f) *Domestic partners have the same right to nondiscriminatory treatment as that provided to spouses.*

~~[7.]~~ (g) *A public agency in this State shall not discriminate against any person or couple on the basis or ground that the person is a domestic partner rather than a spouse or that the couple are domestic partners rather than spouses.*

~~[8.]~~ (h) *The provisions of this chapter do not preclude a public agency from exercising its regulatory authority to carry out laws providing rights to, or imposing responsibilities upon, domestic partners.*

~~[9.]~~ (i) *Where necessary to protect the rights of domestic partners pursuant to this chapter, gender-specific terms referring to spouses must be construed to include domestic partners.*

~~[10.]~~ (j) *For the purposes of the statutes, administrative regulations, court rules, government policies, common law and any other provision or source of law governing the rights, protections and benefits, and the responsibilities, obligations and duties of domestic partners in this State, as effectuated by the provisions of this chapter, with respect to:*

~~[(a)]~~ (1) *Community property;*

~~[(b)]~~ (2) *Mutual responsibility for debts to third parties;*

~~[(c)]~~ (3) *The right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership; and*

~~[(d)]~~ (4) *Other rights and duties as between the partners concerning ownership of property,*

➥ *any reference to the date of a marriage shall be deemed to refer to the date of registration of the domestic partnership.*

~~[11.]~~ 2. *As used in this section, "public agency" means an agency, bureau, board, commission, department or division of the State of Nevada or a political subdivision of the State of Nevada.*

Sec. 8. 1. *The provisions of this chapter do not require a public employer in this State to provide health care benefits to or for the domestic partner of an officer or employee.*

2. *Subsection 1 does not prohibit any public or private employer from voluntarily providing health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.*

~~[Sec. 8.]~~ *Sec. 9.* 1. *Except as otherwise provided in subsection 2, domestic partners who wish to terminate a domestic partnership registered pursuant to section 6 of this act must follow the procedures set forth in chapter 125 of NRS.*

2. *If a domestic partnership meets the criteria specified in subsection 3, domestic partners in a domestic partnership registered pursuant to section 6 of this act may terminate the domestic partnership by:*

(a) *Filing with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that*

both persons have chosen of their own free will to terminate the domestic partnership; and

(b) Paying to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of any administrative costs incurred by the Secretary of State.

3. For a domestic partnership to qualify for the simplified termination proceedings set forth in subsection 2, all of the following conditions must exist at the time of the filing pursuant to that subsection:

(a) The domestic partnership has been registered for 5 years or less.

(b) There are no minor children of the relationship of the parties born before or during the domestic partnership or adopted by the parties during the domestic partnership and no female member of the domestic partnership, to her knowledge, is pregnant, or the parties have executed an agreement as to the custody of any children and setting forth the amount and manner of their support.

(c) There is no community or joint property or the parties have executed an agreement setting forth the division of community property and the assumption of liabilities of the community, if any, and have executed any deeds, certificates of title, bills of sale or other evidence of transfer necessary to effectuate the agreement.

(d) The parties waive any rights to support or the parties have executed an agreement setting forth the amount and manner of support.

(e) The parties waive any right to the conduct of more comprehensive proceedings pursuant to chapter 125 of NRS.

~~[Sec. 9.]~~ *Sec. 10. A legal union of two persons, other than a marriage ~~[,]~~ as recognized by the Nevada Constitution, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership as defined in this chapter, must be recognized as a valid domestic partnership in this State regardless of whether the union bears the name of a domestic partnership.*

~~[Sec. 10.]~~ *Sec. 11. A domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.*

~~[Sec. 11.]~~ *Sec. 12. The provisions of this chapter must be construed liberally to the effect of resolving any doubt or question in favor of finding that a domestic partnership is a valid civil contract entitled to be treated in all respects under the laws of this State as any other civil contract created pursuant to title 11 of NRS would be treated.*

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 528 to Senate Bill No. 283 creates certain exceptions to persons who may register a domestic partnership. The amendment also provides that state and local employers are not required to provide health-care benefits to a domestic partner of an officer or employee but are not precluded from offering such benefits.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 119.

Bill read third time.

Roll call on Senate Bill No. 119:

YEAS—21.

NAYS—None.

Senate Bill No. 119 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 259.

Bill read third time.

Remarks by Senators Woodhouse and Cegavske.

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

SENATOR WOODHOUSE:

I rise in strong opposition to Senate Bill No. 259. As an individual who has earned a Bachelors degree in Elementary Education and two Masters Degrees, one in Curriculum and Instruction and one in Educational Leadership, my conscience and duty to my profession will not allow me to support this measure. I ask you, my colleagues, to oppose it as well. In addition, I served on the Commission on Professional Standards in Education during its early years.

There are many reasons why I cannot support this measure, but the most important one is this: the bill allows for one specific agency to be granted the ability to license teachers. The setting of standards and licensing of teachers is the responsibility of the Commission on Professional Standards in Education through the use of a rigorous procedure. I have no problem if they grant authority, after serious review, to the American Board for Certification of Teacher Excellence (ABCTE). However, other agencies and entities must be reviewed as well. To consider only one is just wrong.

Last session, the Legislature, as a pilot, passed legislation requiring the Commission to review ABCTE and bring a report back to this Session. Unfortunately, they did not. I am concerned about that but do not believe we should compromise our principles as a retaliation for the Commission not doing what they were directed to do. Instead, I believe we should send the Commission a strong message that they must search out ways to provide alternative routes to licensure of teachers that meet our state standards and our State's need for highly qualified teachers in all areas including science, math and other areas of need.

The Committee on Health & Education received a letter on April 1, 2009, from the Commission's new president, Carol Lark. I know her well, as she was a colleague when she served as principal of C. P. Squires Elementary School in North Las Vegas and presently serves as Superintendent of Douglas County Schools. I truly believe she will deliver on her promise to address the issue of alternative routes to licensure in the most professional and appropriate manner.

On behalf of the students of Nevada and the teachers who are in our classrooms and those to come in the future, I urge you to join with me in defeating Senate Bill No. 259. What is most important, above all, is that we have the most highly qualified educators teaching our children. We must license those teachers through a thorough and professional process. Senate Bill No. 259 is just wrong, and I ask you to defeat it by doing what is right for our students. Thank you.

SENATOR CEGAVSKE:

Senate Bill No. 259, with a different number, was before us two years ago. At that time, after much debate, we asked the Commission on Professional Standards to adopt regulations and to require them as we are doing, now, with this bill.

ABCTE is an organization that is in many states. They operate very well and do an excellent job. As I talked about, in Senate Bill No. 330, we need alternatives. We need someone to say we are tired of having substitute teachers and long-term substitute teachers who are not equipped to teach our students. If students have long-and short-term substitute teachers on a regular basis for one or two full years, these students are lost. We wonder why we have a high drop-out rate? Often there is not a qualified teacher in the classroom to teach the math or science classes.

We have many wonderful teachers. We have several teachers who have the expertise, but not enough. Again, alternatives are the only thing that will help this. I am disappointed in my colleague's opposition because she is a highly qualified teacher. I know what she has given to the Clark County School District. I know how she felt about the Commission on Professional Standards as most of us do. It is a dysfunctional Board. We have to get a grip in Nevada.

The Department of Education, as well as other areas we have addressed, has issues. We are not advancing. We are not moving ahead so we sit here in stagnant waters and continue to let our students idle away in a classroom where they are not getting a good education. Our tax dollars are going into these classrooms and we are not getting a product. The businesses tell us we do not have the product they need. This Passport to Teaching Credential is an incredibly good program. Why penalize them because an association does not like them and feels threatened by them. This organization has proved itself. They are in other states doing a wonderful job.

My colleague also mentioned Ms. Lark. She was a wonderful administrator and will probably do a good job. We sent the question to the Professional Standards Board stating, here is an organization, ABCTE. The Teachers' Association said send this over; they can take the next two years to look at this, then, put something together and come back to the Legislature in 2009.

It has been two years. Not only did we not get a report, we did not get telephone calls. We called to get information, but they had done nothing. The excuses were, "We were not in the building. We could not hold a meeting." The excuses go on. Our children are waiting. It has been two years. If we do not mandate this, if we do not put "shall" into the bill, how long will it take? Are you willing to let us wait another two years to see what they might come up with and what alternatives we might have to education to get more teachers here? I am not. I am tired of waiting. I think the time is now, and it is past due.

We should have said "shall" last time. We gave them the opportunity, and they proved to us that they were not willing to look at this. They can look at as many of these programs as they want. It is not just this one, but it is the one that has come to us; the one we have looked at, and the one we have had the hearings on. We look at issues, we talk about them, and we debate them. This was one we felt could help us solve our problem with long-term and short-term substitutes who have a two-year degree and not a specific degree. They are in the classrooms, today, teaching or not teaching our children. That is what the debate is about. Do you want to continue to let our students sit in classrooms without professional teachers? It is working in other states; it can work in Nevada. I am not penalizing anyone. I am telling them they have to adopt some regulations. They can use it for many other organizations that might help us. ABCTE is nationally recognized. They are a good organization. They are not a threat. I would appreciate your support, thank you.

Roll call on Senate Bill No. 259:

YEAS—11.

NAYS—Breeden, Carlton, Coffin, Copening, Lee, Mathews, Parks, Schneider, Wiener, Woodhouse—10.

Senate Bill No. 259 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 267.
Bill read third time.
Roll call on Senate Bill No. 267:
YEAS—21.
NAYS—None.

Senate Bill No. 267 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 288.
Bill read third time.
Roll call on Senate Bill No. 288:
YEAS—21.
NAYS—None.

Senate Bill No. 288 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 310.
Bill read third time.
Roll call on Senate Bill No. 310:
YEAS—21.
NAYS—None.

Senate Bill No. 310 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 320.
Bill read third time.
Remarks by Senators Townsend and Carlton.
Senator Townsend requested that the following remarks be entered in the Journal.

SENATOR TOWNSEND:
Does this bill expand the scope of practice of dental hygienists?

SENATOR CARLTON:
No, it does not. In a past session, the dental hygienists had asked to have their own board. We told them they were not yet ready and asked them to become a committee on the Board of Dental Examiners. They have done so. They have performed well and have done a good job. They established their regulations and policies and procedures. This bill picks up all of those policies and procedures that have been established under the Board and relocates them into their own Board. It will not expand the scope of practice.

SENATOR TOWNSEND:
In section 31, subsections 2 and 5, where it specifically says in subsection 2,"a dental hygienist may perform only the services which are authorized by a dentists' license in the State, unless otherwise provided in a regulation adopted by the Board." That last part is key. This is open-ended language. Could this be addressed by the sponsor?

On page 13, subsection 5, it states, "a dental hygienist shall not perform a diagnosis or a treatment plan unless otherwise provided in regulation adopted by the Board." That seems to be open ended given the long history both the Chair and myself have had with regulations.

SENATOR CARLTON:

I believe that is language that was picked up and moved when the Advisory Committee was part of the Dental Examiners Board. The Board would have dealt with what the dental-hygiene profession could have actually done. It might have been one of those provisions we may have overlooked when moving it. We did a lot of cleanup language on this. It was never my intent to allow the Dental Hygiene Board to expand their own scope of practice. I will make certain that if this bill passes this House, those issues are addressed. That is not one of the problems pointed out to me when we amended the bill.

Roll call on Senate Bill No. 320:

YEAS—12.

NAYS—Amodei, Cegavske, Hardy, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington—9.

Senate Bill No. 320 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 364.

Bill read third time.

Roll call on Senate Bill No. 364:

YEAS—21.

NAYS—None.

Senate Bill No. 364 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 365.

Bill read third time.

Conflict of interest declared by Senator Care.

Roll call on Senate Bill No. 365:

YEAS—20.

NAYS—None.

NOT VOTING—Care.

Senate Bill No. 365 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 385.

Bill read third time.

The following amendment was proposed by Senator Washington:

Amendment No. 551.

"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 *certain* 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]~~ *52.5* 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)

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

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

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

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

3. The State Board shall, and *the Nevada Charter School Institute,* each board of trustees of a local school district, the governing body of each charter

school and any other school officer may, advise the Legislature at each regular session of any recommended legislative action to ensure high standards of equality of educational opportunity for all children in the State of Nevada.

Sec. 2. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district . [, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~ The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district ~~[, including, without limitation, each charter school in the district,]~~ and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district ~~[, including, without limitation, pupils enrolled in charter schools in the district,]~~ with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, ~~[including, without limitation, each charter school in the district,]~~ information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole ~~[, including, without limitation, each charter school in the district,]~~ and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~ The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) ~~[On and after July 1, 2005, the]~~ *The* number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) ~~[On and after July 1, 2006, the]~~ *The* number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) ~~[On and after July 1, 2005, the]~~ *The* number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) ~~[On and after July 1, 2006, the]~~ *The* number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole . ~~[, 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) Committee; and
(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 *or 3, as applicable,* in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district ~~[,]~~ *or the Nevada Charter School Institute,* if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, ~~[including, without limitation, each charter school in the district,]~~ the residents of the district ~~[,]~~ and the parents and guardians of pupils enrolled in schools in the district . ~~[, including, without limitation, each charter school in the district.~~

~~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) Committee;
(5) Bureau; and
(6) 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 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 , if the school is a charter school, the ~~[Nevada Charter School Institute, as applicable.]~~ sponsor of the charter school.*

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

Sec. 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.]~~ sponsor of the charter school.*

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

(c) The principal of each public school shall ensure that the parents and legal guardians of the pupils enrolled in the school have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the

Internet website, if any, and how a parent or guardian may otherwise access the summary.

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

Sec. 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;]~~ Sponsor of the charter school;

(c) Department; and

(d) Bureau.

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

Sec. 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.~~ *2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.* ~~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.~~ *4.* To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

~~6.~~ *5.* If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

~~7.~~ *6.* The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The ~~State Board~~ *Charter School Institute* may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~8.~~ *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]*~~*:*

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

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

➥ for inclusion in the report of the ~~[school district]~~ *Institute* pursuant to that section. The information must be submitted by the *sponsor of the charter school or the* charter school *, as applicable,* in a format prescribed by the ~~[board of trustees.]~~ ~~*[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 *sponsors of charter schools pursuant to this section and* 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. (Deleted by amendment.)

Sec. 49. 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, 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. 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. 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. (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. Any regulations adopted by the Department of Education or the State Board of Education pursuant to NRS 386.500 to 386.610, inclusive, before 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. 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 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 16.5, inclusive, 18 to 26, inclusive, 28 to 47, inclusive, and 49 to 56, inclusive, of this act become effective 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.

This amendment provides clean-up language for reporting requirements for accountability. It makes certain the sponsoring district, whether it is a school district or the University system that gathers the data, submits it to the NCSI so that the information may be compiled and a report will be sent out by the NCSI.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 393.

Bill read third time.

Roll call on Senate Bill No. 393:

YEAS—21.

NAYS—None.

Senate Bill No. 393 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 8:15 p.m.

Motion carried.

Senate in recess at 7:54 p.m.

SENATE IN SESSION

At 8:17 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 286 be rereferred to the Committee on Finance.

Remarks by Senator Care.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 154.

Bill read third time.

Roll call on Senate Bill No. 154:

YEAS—12.

NAYS—Amodei, Cegavske, Hardy, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington—9.

Senate Bill No. 154 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 210.

Bill read third time.

Roll call on Senate Bill No. 210:

YEAS—21.

NAYS—None.

Senate Bill No. 210 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 283.

Bill read third time.

The following amendment was proposed by Senator Raggio:

Amendment No. 567.

"SUMMARY—Revises provisions governing ~~[the rights of domestic partners.]~~ *domestic relations contracts.* (BDR 11-1100)"

"AN ACT relating to domestic relations; providing for the ~~[registration and dissolution of domestic partnerships]~~ *recognition of domestic relations contracts* in the State of Nevada ~~[; setting forth the rights and responsibilities attendant to such partnerships;]~~ *for certain limited purposes;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill ~~[establishes a domestic partnership as a new type of civil contract recognized]~~ *allows certain adult persons to enter into a domestic relations contract* in the State of Nevada. Under the provisions of this bill, ~~[with certain exceptions, domestic partners have the same rights, protections, benefits, responsibilities, obligations and duties as do parties to any other civil contract created pursuant to title 11 of NRS. This bill also clarifies that a domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.~~

~~Section 8 of this bill sets forth that no public employer in this State is required to provide health care benefits to or for the domestic partner of an officer or employee. Section 8 also clarifies that any public or private employer in this State may voluntarily provide health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.]~~ *persons who enter into such a contract are afforded rights with respect to inheritance, the planning of funerals and the making of medical decisions that are substantially similar to the rights that spouses have in this State.*

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

Section 1. Title 11 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections ~~[2 to 12, inclusive,]~~ *6 and 7* of this act.

Sec. 2. ~~[*This chapter may be cited as the Nevada Domestic Partnership Act.*]~~ *(Deleted by amendment.)*

Sec. 3. ~~[*As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this act have the meanings ascribed to them in those sections.*]~~ *(Deleted by amendment.)*

Sec. 4. ~~[*"Domestic partners" means persons who:*~~

~~*1. Have registered a valid domestic partnership pursuant to section 6 of this act; and*~~

~~*2. Have not terminated that domestic partnership pursuant to section 9 of this act.*]~~ *(Deleted by amendment.)*

Sec. 5. ~~[*"Domestic partnership" means the social contract between two persons that is described in section 6 of this act.*]~~ *(Deleted by amendment.)*

Sec. 6. *1.* ~~[*A valid domestic partnership is registered in the State of Nevada when two persons who satisfy the requirements of subsection 2:*~~

~~*(a) File with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that both persons:*~~

~~*(1) Have chosen to share one another's lives in an intimate and committed relationship of mutual caring; and*~~

~~*(2) Desire of their own free will to enter into a domestic partnership; and*~~

~~*(b) Pay to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of an amount set by the Secretary of State to estimate:*~~

~~*(1) The cost incurred by the Secretary of State to issue the Certificate described in subsection 3; and*~~

~~*(2) Any other associated administrative costs incurred by the Secretary of State.*]~~ *May enter into a domestic relations contract to obtain the benefits described in section 7 of this act.*

2. To be eligible to ~~[*register pursuant to subsection 1, two persons desiring to enter into a domestic partnership must furnish proof satisfactory to the Office of the Secretary of State that:*]~~ *enter into a contract of the type described in subsection 1:*

(a) Both persons must have a common residence;

(b) Neither person ~~[*is*]~~ *may be married or a* ~~[*member of*]~~ *party to another* ~~[*domestic partnership;*]~~ *such contract;*

(c) The two persons ~~[*are*]~~ *must not be related by blood in a way that would prevent them from being married to each other in this State;*

(d) Both persons ~~[*are*]~~ *must be at least 18 years of age; and*

(e) Both persons ~~[*are*]~~ *must be competent to consent to the* ~~[*domestic partnership.*~~

~~*3. The Office of the Secretary of State shall issue a Certificate of Registered Domestic Partnership to persons who satisfy the requirements of this section.*~~

~~*4.]*~~ *contract.*

3. As used in this section:

(a) "Common residence" means a residence shared by both ~~*[domestic partners]*~~ *parties to a contract of the type described in subsection 1 on at least a part-time basis, irrespective of whether:*

(1) Ownership of the residence or the right to occupy the residence is in the name of only one of the ~~*[domestic partners;]*~~ *parties; and*

(2) One or both of the ~~*[domestic partners]*~~ *parties owns or occupies an additional residence.*

(b) "Residence" means any house, room, apartment, tenement or other building, vehicle, vehicle trailer, semitrailer, house trailer or boat designed or intended for occupancy as a residence.

Sec. 7. ~~*[1. Except as otherwise provided in section 8 of this act:*~~

~~*(a) Domestic partners]*~~ *Parties to a contract of the type described in subsection 1 of section 6 of this act have substantially the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon spouses* ~~*[.]*~~ *, but only with respect to the following topics:*

1. Inheritance;

2. The planning of funerals; and

3. The right to make medical decisions.

~~*[(b) Former domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon former spouses.*~~

~~*(c) A surviving domestic partner, following the death of the other partner, has the same rights, protections and benefits, and is subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.*~~

~~*(d) The rights and obligations of domestic partners with respect to a child of either of them are the same as those of spouses. The rights and obligations of former or surviving domestic partners with respect to a child of either of them are the same as those of former or surviving spouses.*~~

~~*(e) To the extent that provisions of Nevada law adopt, refer to or rely upon provisions of federal law in a way that otherwise would cause domestic partners to be treated differently from spouses, domestic partners must be*~~

~~*treated by Nevada law as if federal law recognized a domestic partnership in the same manner as Nevada law.*~~

~~*(f) Domestic partners have the same right to nondiscriminatory treatment as that provided to spouses.*~~

~~*(g) A public agency in this State shall not discriminate against any person or couple on the basis or ground that the person is a domestic partner rather than a spouse or that the couple are domestic partners rather than spouses.*~~

~~*(h) The provisions of this chapter do not preclude a public agency from exercising its regulatory authority to carry out laws providing rights to, or imposing responsibilities upon, domestic partners.*~~

~~*(i) Where necessary to protect the rights of domestic partners pursuant to this chapter, gender-specific terms referring to spouses must be construed to include domestic partners.*~~

~~*(j) For the purposes of the statutes, administrative regulations, court rules, government policies, common law and any other provision or source of law governing the rights, protections and benefits, and the responsibilities, obligations and duties of domestic partners in this State, as effectuated by the provisions of this chapter, with respect to:*~~

~~*(1) Community property;*~~

~~*(2) Mutual responsibility for debts to third parties;*~~

~~*(3) The right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership; and*~~

~~*(4) Other rights and duties as between the partners concerning ownership of property,*~~

~~*→ any reference to the date of a marriage shall be deemed to refer to the date of registration of the domestic partnership.*~~

~~*2. As used in this section, "public agency" means an agency, bureau, board, commission, department or division of the State of Nevada or a political subdivision of the State of Nevada.]*~~

Sec. 8. ~~*[1. The provisions of this chapter do not require a public employer in this State to provide health care benefits to or for the domestic partner of an officer or employee.*~~

~~*2. Subsection 1 does not prohibit any public or private employer from voluntarily providing health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.]*~~ *(Deleted by amendment.)*

Sec. 9. ~~*[1. Except as otherwise provided in subsection 2, domestic partners who wish to terminate a domestic partnership registered pursuant to section 6 of this act must follow the procedures set forth in chapter 125 of NRS.*~~

~~*2. If a domestic partnership meets the criteria specified in subsection 3, domestic partners in a domestic partnership registered pursuant to section 6 of this act may terminate the domestic partnership by:*~~

~~*(a) Filing with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that both persons have chosen of their own free will to terminate the domestic partnership; and*~~

~~*(b) Paying to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of any administrative costs incurred by the Secretary of State.*~~

~~*3. For a domestic partnership to qualify for the simplified termination proceedings set forth in subsection 2, all of the following conditions must exist at the time of the filing pursuant to that subsection:*~~

~~*(a) The domestic partnership has been registered for 5 years or less.*~~

~~*(b) There are no minor children of the relationship of the parties born before or during the domestic partnership or adopted by the parties during the domestic partnership and no female member of the domestic partnership, to her knowledge, is pregnant, or the parties have executed an agreement as to the custody of any children and setting forth the amount and manner of their support.*~~

~~*(c) There is no community or joint property or the parties have executed an agreement setting forth the division of community property and the assumption of liabilities of the community, if any, and have executed any deeds, certificates of title, bills of sale or other evidence of transfer necessary to effectuate the agreement.*~~

~~*(d) The parties waive any rights to support or the parties have executed an agreement setting forth the amount and manner of support.*~~

~~*(e) The parties waive any right to the conduct of more comprehensive proceedings pursuant to chapter 125 of NRS.]*~~ *(Deleted by amendment.)*

Sec. 10. ~~*[A legal union of two persons, other than a marriage as recognized by the Nevada Constitution, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership as defined in this chapter, must be recognized as a valid domestic partnership in this State regardless of whether the union bears the name of a domestic partnership.]*~~ *(Deleted by amendment.)*

Sec. 11. ~~*[A domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.]*~~ *(Deleted by amendment.)*

Sec. 12. ~~*[The provisions of this chapter must be construed liberally to the effect of resolving any doubt or question in favor of finding that a domestic partnership is a valid civil contract entitled to be treated in all respects under the laws of this State as any other civil contract created pursuant to title 11 of NRS would be treated.]*~~ *(Deleted by amendment.)*

Senator Raggio moved the adoption of the amendment.

Remarks by Senators Raggio and Parks.

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

SENATOR RAGGIO:

This measure deals with the rights of domestic partners and is one of the most contentious measures to come before the Senate this Session. Many of us have received calls in great numbers from both opponents and proponents of the measure. It reminds me of the arguments we had in the 1970s when we were dealing with the Equal Rights Amendment. Most of my constituents have expressed opposition on the basis that this violates the intent of the amendment to our State Constitution, which was passed overwhelmingly by the voters, called the Defense of Marriage Act of 2002. Senate Bill No. 283, in my opinion, goes too far and although it states in its provisions that it does not constitute a marriage within the meaning of the Constitution, that is precisely what it does.

I have discussed this with a number of my friends who are domestic partners. They have indicated to me that the requirements in Senate Bill No. 283 are excessive. Their main concerns have been the ability to inherit and to make decisions that concern a partner's funeral or medical decisions. This amendment has been fashioned after the law that was enacted in Colorado, and it provides for a Domestic Relations Contract between domestic partners who can be homosexual or heterosexual. This amendment recognizes that those rights are important to those individuals.

I proposed this amendment as a compromise, which would retain the integrity of the Defense of Marriage Provision in the Constitution, but which would recognize that these are essential concerns of domestic partners.

SENATOR PARKS:

I rise in opposition to Amendment No. 567 with due respect to the requestor of this amendment. As I read this amendment, it establishes a domestic-relation contract which still requires the services of an attorney for someone who wishes to execute any agreements, and sadly, this is no different than the way things are today.

I would like to comment on the bill that was recently passed in Colorado. House Bill 1260, referred to as the Colorado Designated Beneficiary Act, provides for a tool for estate planning giving Colorado residents access to low cost and convenient methods for making plans for end-of-life decisions for inheritance and other protections related to health care and medical emergencies. The program, adopted and signed into law by the Governor of Colorado, also provided for recipients of health or life insurance benefits the ability to sue for wrongful death, and it goes quite a bit further than this proposed amendment does.

As to the constitutionality of Senate Bill No. 283, it is the opinion of the Legislative Counsel that if the provisions of Senate Bill No. 283 were to be enacted by the Nevada Legislature those provisions would not conflict with the language set forth in Section 21 of Article 1 of the Nevada Constitution.

Senator Amodei, Raggio and Hardy requested a roll call vote on Senator Raggio's motion.

Roll call on Senator Raggio's motion:

YEAS—10.

NAYS—Breeden, Care, Coffin, Copening, Horsford, Lee, Mathews, Parks, Schneider, Wiener, Woodhouse—11.

The motion having failed to receive a majority, Mr. President declared it lost.

Remarks by Senators Townsend, Parks and Washington.

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

SENATOR TOWNSEND:

Would the sponsor of the Senate Bill No. 283 respond to section 6, subsection 1, paragraph (a)? The language in Senate Bill No. 283 has to do with "filing with the Office of the Secretary of State a form prescribed by the Secretary a signed and notarized statement that

declares that both persons," the language continues explaining what it does. Is that language in any of the current licenses in the counties of this State? I refer specifically to lines 22 and 23.

SENATOR PARKS:

In section 6, subsection 1, paragraph (a), it says "files with the Office of the Secretary of State a form prescribed by the Secretary of State a signed and notarized statement declaring that both persons have," and it lists a number of qualifications. Is that the part being questioned?

SENATOR TOWNSEND:

Lines 22 and 23 state, "declaring that both persons 1) if chosen to share one another's lives in an intimate and committed relationship of mutual caring, 2) desire their own free will to enter into a domestic partnership."

SENATOR PARKS:

This indicates these two individuals have a desire to be partners in a domestic partnership.

SENATOR WASHINGTON:

In section 6, paragraph (b), regarding payment to the Secretary of State for reasonable filing fees, what is the purpose of the fee and what is the purpose of filing with the Secretary of State?

SENATOR PARKS:

The Office of the Secretary of State has numerous filing fees established by statute or by regulation. This bill permits the Secretary of State to establish what that fee would be. The purpose of the filing is that the filing is used to provide a document that the partners would have which would allow them to access any number of issues related in the bill that would permit them to make filings for that legal purpose.

SENATOR WASHINGTON:

Does the document act the same as a marriage license concerning matters of inheritance and medical concerns?

SENATOR PARKS:

I do not know that it would act the same way as a marriage license would. However, it is a formal document. It is used in other states where such domestic partnerships or civil unions have been established and where they have been upheld as being legal. It would be like any other legal document that someone would have to establish proof of their relationship.

SENATOR WASHINGTON:

Without the provisions of this bill, would those domestic partners be able to obtain or receive this necessary document for the purposes of the provisions that are listed in this bill? Can they get this document without this bill?

SENATOR PARKS:

In the absence of this document, the individuals would no longer have any documented proof of their established relationship. It is an integral part of the relationship.

SENATOR WASHINGTON:

I have concerns about this document. My colleague from Clark County has indicated that this does not conflict with the constitutional amendment, the Marriage Protection Act, but by reading this bill with all of the amendments that have been placed in it, there may be a concern about the constitutionality because the document that is filed may act in accordance with a marriage license document. Therefore, it may be in conflict with the amendment passed by the people. There may be a challenge. I am not a lawyer and do not profess to know constitutional law. I understand if this bill is passed, there may be a challenge based on the fact that these two documents are equal to the Marriage Protection Act, whether for domestic partners or for those who have decided to reside as a married couple for the purposes of living and raising children together and exercising their rights over burials, funerals, for medical emergencies or for inheritance reasons.

SENATOR PARKS:

I have an example of the document called the Declaration of Domestic Partnership that a resident of the State of California would fill out. This document indicates "Partner 1" and "Partner 2." Senate Bill No. 283 requires notarization. The document only gives the names of the partners and that they are the partners.

SENATOR TOWNSEND:

Under section 10, "a legal union of two persons other than a marriage recognized by the Nevada Constitution that was validly formed in another jurisdiction." Does that require individuals who have a legal union from another jurisdiction to have to go to the Secretary of State to register or file a form or is it, based on this paragraph, stating that if you have a legal union from another jurisdiction, you do not have to go to the Secretary of State?

SENATOR PARKS:

This document states in section 10, "It is not a marriage for the purposes of section 21." County clerks issue most marriage licenses. This would be a document like many other documents that would be issued by the Secretary of State's Office, and it would have that difference.

SENATOR TOWNSEND:

My question refers to section 10 where it states, "A legal union of two persons that was validly formed in another jurisdiction must be recognized here." Does that mean that contract must be taken to the Secretary of State's office here and reregistered or not?

SENATOR PARKS:

This would allow individuals to go to the Secretary of State and allow them to file for domestic partnership. They would be recognized here.

Roll call on Senate Bill No. 283:

YEAS—12.

NAYS—Amodei, Care, Cegavske, Hardy, Lee, Nolan, Raggio, Rhoads, Washington—9.

Senate Bill No. 283 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 385.

Bill read third time.

Roll call on Senate Bill No. 385:

YEAS—21.

NAYS—None.

Senate Bill No. 385 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 38; Assembly Bills Nos. 169, 172, 182.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to the following students from Fremont Elementary School: Amy Ahumada, Jordan Aikins, Taylor Brown, Spencer

Carlson, Stella Carroll, Ellen Cherpeski, Elisabeth Crandell, Michael Depew, Chloe Dodge, Adam Flaten, Gabriella Garcia-Salas, Jonathan Gonse, Alysha Goss, Abigail Gould, Lauren Hudak, Samuel Jones, Wyatt Law, Christopher Lawrence, Gyesenia Medina, Bryce Moyle, Angel Olvera, Jennifer Perez Carrillo, Trevin Stevens, Bailey Trethan, Austin Tucker, Konnor Van Worth, Hunter Wheeler, Nathalie Yanez-Montiel, Brandon Annabel, Jonathan Barahona, Odalis Castaneda-Perez, Victor Chavez, Kyle Clardy, Macey Creek, Jacob Cremeans, Haley Davis, Tricia Gainey, Kaylyn Glick, Lauren Huston-Fulghum, Juan Juarez, Dennis Krueger, William Lee, Selin Lizarraga, Gisselle Llamas Aranda, Jesse Lopez, Valerie Meyer, Anthony Miguel IV, Ryan Olesski, Amber Pion, Karina Rodriguez, Maxwell Servi, Tayler Smith, Rachel Soukup, Christopher Verhagen, Cirilo Viramontes, Sarah Weese, Angel Wrinkle and Ezekias Robles.

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 Marvin Moss Elementary School: Mason Anderson, Israel Arias, Analica Arriaga, Krista Bosch, Caleb Bottomley, Lindsay Carosella, Shagil Cotto, Brittany Donley, Maurice Garcia, Cheyenne Ghiglia, Devin Gonzalez, Samantha Gonzalez, Gabriela Hernandez, Emma Hillerby, Jose Jose, Jake Marchant, Ivan Martinez, Collin Messinger, Michael Moore, Noah Neely, Hannah Newlin, Diana Recinos, Jordan Reynolds, Elizabeth Schiller, Meghan Shannon, Jacob Sorensen, Alexis Still, Cloe' Wacker, Paul Richards and William Brown.

Senator Horsford moved that the Senate adjourn until Wednesday, April 22, 2009, at 12:30 p.m.

Motion carried.

Senate adjourned at 8:41 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate