THE ONE HUNDRED AND FOURTH DAY

CARSON CITY (Saturday), May 16, 2009

Senate called to order at 11:15 a.m.

President Krolicki presiding.

Roll called.

All present except Senators Nolan and Townsend, who were excused.

Prayer by Senator Cegavske.

God of all the ages, in Your sight nations rise and fall and pass through times of peril. Now, when our land is troubled, be near to judge and save.

May leaders be led by Your wisdom; may they search Your will and see it clearly.

If we have turned from Your way, reverse our ways and help us to repent. Give us Your light and Your truth; let them guide us through Jesus Christ, who is Lord of this world and our Savior.

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 was referred Assembly Bill No. 208, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Energy, Infrastructure and Transportation, to which was referred Assembly Bill No. 402, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was rereferred Senate Bill No. 382, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 87, 220, 360, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Education, to which was referred Assembly Bill No. 326, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Education, to which were referred Assembly Bills Nos. 26, 56, 89, 101, 249, 263, 487, 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 Judiciary, to which were referred Assembly Bills Nos. 179, 309, 325, 350, 491, 500, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Assembly Bills Nos. 199, 414, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Natural Resources, to which was referred Assembly Bill No. 15, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Taxation, to which was referred Assembly Bill No. 267, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BOB COFFIN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 15, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 201, 207; Assembly Bill No. 294.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 227, 246, 505.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 283, Amendment No. 674, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 568 to Assembly Bill No. 177; Senate Amendment No. 616 to Assembly Bill No. 425.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 578 to Assembly Bill No. 259.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 45, Assembly Amendment No. 587, and requests a conference, and appointed Assemblymen Kihuen, Segerblom and Gustavson as a Conference Committee to meet with a like committee of the Senate.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

May 15, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 271.

GARY GHIGGERI
Fiscal Analysis Division

May 16, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 207, 503.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 35.

Resolution read.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 681.

"SUMMARY—Urges Congress to enact legislation allowing states to collect sales taxes on remote sales, including sales on the Internet. (BDR R-1312)"

"SENATE CONCURRENT RESOLUTION—Urging Congress to enact legislation allowing states to collect sales taxes on remote sales, including sales on the Internet."

WHEREAS, The 1967 *Bellas Hess* and the 1992 *Quill* Supreme Court decisions denied states the authority to require the collection of sales and use taxes by out-of-state sellers that have no physical presence in the taxing state; and

WHEREAS, The combined weight of the inability to collect sales and use taxes on remote sales through traditional carriers and the tax erosion due to electronic commerce threatens the future viability of the sales tax as a stable revenue source for state and local governments; and

WHEREAS, The Center for Business and Economic Research at the University of Tennessee has estimated that states lost as much as $30 billion in 2008 because they were not able to collect taxes on remote sales, including sales on the Internet; and

WHEREAS, Since 1999, state legislators, governors, local elected officials, state tax administrators and representatives of the private sector have worked to develop a streamlined sales and use tax collection system for the 21st century; and

WHEREAS, Between 2001 and 2004, Nevada and 39 other states enacted legislation expressing the intent to simplify the states' sales and use tax collection systems and to participate in multistate discussions to finalize and ratify an interstate agreement to streamline collection of the states' sales and use taxes; and

WHEREAS, On November 12, 2002, state delegates unanimously ratified the Streamlined Sales and Use Tax Agreement, which substantially simplifies state and local sales and use tax collection systems, removes the burdens to interstate commerce that were of concern to the Supreme Court and protects state sovereignty; and

WHEREAS, The Streamlined Sales and Use Tax Agreement provides the states with a blueprint to create a simplified and more uniform sales and use

tax collection system that, when implemented, allows justification for Congress to overturn the *Bellas Hess* and *Quinn* decisions; and

WHEREAS, By March 1, 2009, 23 states, including Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming, representing over 30 percent of the total population of the United States, enacted legislation to bring their states' sales and use tax statutes into compliance with the Agreement; and

WHEREAS, The members of the Nevada Legislature and our colleagues in the other states have shown the resolve to acknowledge the complexities of the current sales and use tax collection system, have worked with the business community to formulate a truly simplified and streamlined sales and use tax collection system and have shown the political will to enact the necessary changes to make the streamlined sales and use tax collection system the law; and

WHEREAS, The Main Street Fairness Act will be introduced in the 111th Congress to grant those states that comply with the Agreement the authority to require all sellers, regardless of nexus, to collect those states' sales and use taxes; and

WHEREAS, Supporting Nevada's efforts to comply with the Streamlined Sales and Use Tax Agreement and the federal legislation granting collection authority to the states are such organizations as: Associated Builders and Contractors-Sierra Nevada Chapter, Associated General Contractors-Las Vegas Chapter, Carson City Chamber of Commerce, Chancellor and Executive Vice Chancellor-Nevada System of Higher Education, Las Vegas Chamber of Commerce, Las Vegas Police Protective Association Metro, Inc., League of Women Voters of Nevada, NAIOP, Nevada Association of School Boards, Nevada Bankers Association, Nevada Chapter Associated General Contractors, Nevada Franchised Auto Dealers Association, Nevada Manufacturers Association, Nevada Mining Association, Nevada Motor Transport Association, Nevada Petroleum Marketers & Convenience Store Association, *Nevada Press Association*, Nevada Rental Car Group, *Nevada State AFL-CIO*, Nevada State Education Association, Nevada Taxpayers Association, Professional Fire Fighters of Nevada, Progressive Leadership Alliance of Nevada, Reno Sparks Chamber of Commerce and Retail Association of Nevada; and

WHEREAS, Until Congress and the President enact the Main Street Fairness Act, participation by remote sellers is only voluntary and thus states are unlikely to close the revenue gap between what is owed on remote transactions and what is collected; and

WHEREAS, Congressman Roy Blunt of Missouri has termed this federal legislation as "fiscal relief for the states that does not cost the Federal Government a single cent," ensuring the viability of the sales and use tax as a state revenue source; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the Nevada Legislature call upon the members of our Congressional Delegation to join as cosponsors of the Main Street Fairness Act, to support its swift adoption by the Congress of the United States and to urge President Barack Obama to sign this Act into law upon its passage by Congress; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

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

This measure was discussed thoroughly, and it was acknowledged that we need to exert our maximum effort to convince Congress that they need to approve the existing legislation in the states to collect taxes on transactions that occur and are uncollected except in the states where the items are sold. Congress has not acted upon the legislation for a long time. I request that the amendment be adopted.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

Assembly Concurrent Resolution No. 19.

Resolution read.

Senator Lee moved the adoption of the resolution.

Remarks by Senator Lee.

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

This resolution will allow the Legislative Commission to start the process as we ready ourselves for the reapportionment hearings in two years.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Horsford moved that for the remainder of this session, all Senate bills and resolutions reported out of committee with amendments be immediately placed on the appropriate reading files on the next agenda, time permitting.

Remarks by Senator Horsford.

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

If we immediately place Senate bills and resolutions with amendments on the appropriate files, this will speed up the legislative process by moving our process up one day.

Motion carried.

Senator Horsford moved that for the remainder of this session, that all necessary rules be suspended, reading so far had considered second reading, rules further suspended, and that all Senate bills and joint resolutions reported out of committee with a "do pass" (without amendments) be

declared emergency measures under the Constitution and be immediately placed on third reading and final passage, next agenda, time permitting.

Remarks by Senator Horsford.

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

If we immediately place Senate bills and joint resolutions without amendments on the General File, this also will speed up our process by two days.

Motion carried.

Senator Horsford moved that for the remainder of this session, all necessary rules be suspended, and that all Senate concurrent resolutions just reported out of committee be immediately placed on the resolution file, next agenda, time permitting.

Remarks by Senator Horsford.

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

This will hasten the process of Senate concurrent resolutions in a similar manner as the "do pass" bills and joint resolutions.

Motion carried.

Senator Horsford moved that for the remainder of the legislative session, all necessary rules be suspended, and that all Senate measures be immediately transmitted to the Assembly.

Remarks by Senator Horsford.

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

Immediately transmitting all Senate measures will provide the Assembly an opportunity to process these measures before the end of Session.

The President will announce the transmittal of Senate bills and resolutions each time, which will provide members the opportunity to "give notice of reconsideration" or "rescind an action" whichever is appropriate at that time. Once Senate measures have been transmitted, the Senate has no jurisdiction as to further options for legislative action, unless such action falls under the purview of Unfinished Business.

Motion carried.

Senator Care moved that Assembly Bills Nos. 271, 521 be taken from the Second Reading File and rereferred to the Committee on Finance.

Motion carried.

Senator Care moved that Assembly Bill No. 503 be taken from the General File and rereferred to the Committee on Finance.

Motion carried.

Senator Care moved that Assembly Bill No. 230 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Care moved that Senate Bill No. 52 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Amodei moved that Assembly Bill No. 233 be taken from the Second Reading File and placed on the Second Reading File on the second agenda.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 227.

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

Motion carried.

Assembly Bill No. 246.

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

Motion carried.

Assembly Bill No. 294.

Senator Care moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 505.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 371.

Bill read second time and ordered to third reading.

Senate Bill No. 416.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 713.

"SUMMARY—~~[Eliminates the requirement for]~~ *Suspending temporarily* the administration of norm-referenced examinations in public schools. (BDR ~~[34]~~ *S*-1216)"

"AN ACT relating to education; ~~[eliminating the requirement for]~~ *suspending temporarily* the administration of norm-referenced examinations in public schools; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district and the governing body of each charter school to administer norm-referenced examinations in grades 4, 7 and 10 which compare the results of pupils to a national reference group of pupils. ~~[Existing law also requires the administration of a high school proficiency examination. (NRS 389.015) Section 4 of this bill eliminates the requirement for]~~ *This bill suspends temporarily* the administration of norm-referenced examinations ~~[. The~~

~~remaining sections of this bill revise existing law to delete references to the norm-referenced examinations.~~] *for the 2009-2010 School Year and the 2010-2011 School Year.*

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

Section 1. ~~[NRS 385.34692 is hereby amended to read as follows:~~

~~385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes, without limitation, a summary of the following information for each school district, each charter school and the State as a whole:~~

~~(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:~~

~~(1) Who are economically disadvantaged, as defined by the State Board;~~

~~(2) Who are from major racial or ethnic groups, as defined by the State Board;~~

~~(3) With disabilities;~~

~~(4) Who are limited English proficient; and~~

~~(5) Who are migratory children, as defined by the State Board;~~

~~(b) The average daily attendance of pupils, reported separately for the groups identified in paragraph (a);~~

~~(c) The transiency rate of pupils;~~

~~(d) The percentage of pupils who are habitual truants;~~

~~(e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;~~

~~(f) The number of incidents resulting in suspension or expulsion for:~~

~~(1) Violence to other pupils or to school personnel;~~

~~(2) Possession of a weapon;~~

~~(3) Distribution of a controlled substance;~~

~~(4) Possession or use of a controlled substance; and~~

~~(5) Possession or use of alcohol;~~

~~(g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;~~

~~(h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;~~

~~(i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;~~

~~(j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;~~

~~(k) The number and percentage of pupils who graduated from high school;~~

~~(l) The number and percentage of pupils who received a:~~

~~(1) Standard diploma;~~

~~(2) Adult diploma;~~

~~(3) Adjusted diploma; and~~

~~(4) Certificate of attendance;~~

~~(m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;~~

~~(n) Per pupil expenditures;~~

~~(o) Information on the professional qualifications of teachers;~~

~~(p) The average daily attendance of teachers and licensure information;~~

~~(q) Information on the adequate yearly progress of the schools and school districts;~~

~~(r) Pupil achievement based upon the examinations administered pursuant to NRS 389.550 and the high school proficiency examination [;~~

~~(s) To the extent practicable, pupil achievement based upon the examinations]~~ ~~administered pursuant to NRS 389.015 [for grades 4, 7 and 10; and~~

~~(t)]~~ ~~; *and*~~

~~*(s)* 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)(1) and the regulations adopted pursuant thereto;~~

~~(b) Be prepared in a concise manner; and~~

~~(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.~~

~~3. On or before September 7 of each year, the State Board shall:~~

~~(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and~~

~~(b) Submit a copy of the summary in an electronic format to the:~~

~~(1) Governor;~~

~~(2) Committee;~~

~~(3) Bureau;~~

~~(4) Board of Regents of the University of Nevada;~~

~~(5) Board of trustees of each school district; and~~

~~(6) Governing body of each charter school.~~

~~4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.~~

~~5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.]~~ *(Deleted by amendment.)*

Sec. 2. ~~[NRS 385.389 is hereby amended to read as follows:~~

~~385.389 1. The Department shall adopt programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015 [,] *and 389.550*, 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.~~

~~2. 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.~~

~~3. 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,] *based upon the results of the examinations administered pursuant to NRS 389.015 or 389.550*, the school shall adopt a program of remedial study that has been adopted by the Department pursuant to subsection 1 or a program, practice or strategy recommended by the Commission on Educational Excellence pursuant to NRS 385.3785, or any combination thereof, as applicable.~~

~~4. 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 *or 389.550, as applicable*, 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.]~~ *(Deleted by amendment.)*

Sec. 3. ~~[NRS 385.3891 is hereby amended to read as follows:~~

~~385.3891 1. The Department shall establish a monitoring system for the statewide system of accountability. The monitoring system must [:~~

~~(a) Include a common formula that provides a comparison and analysis of the results of pupils on the examinations that are administered pursuant to NRS 389.015 and 389.550, identified by grade, school and school district.~~

~~(b) Identify any inconsistencies of the results of the examinations administered pursuant to NRS 389.015 compared with the results of the examinations administered pursuant to NRS 389.550, including, without limitation, an identification of whether the results of one or more subject areas on the examinations administered pursuant to NRS 389.015 are significantly higher or lower than the results of the same subject area or areas on the examinations that are administered pursuant to NRS 389.550.~~

~~(c) Identify] *identify* significant levels of achievement of pupils on the examinations that are administered pursuant to NRS 389.550 and the high school proficiency examination that is administered pursuant to NRS 389.015, identified by school and by school district.~~

~~[(d) Include procedures for investigating, and if necessary, auditing any inconsistencies identified pursuant to paragraph (b). The audit must include a review of data from the applicable school district or school districts, school or schools, and if practicable, class or classes.]~~

~~2. On or before October 1 of each year, the Department shall prepare a written summary of the findings made pursuant to subsection 1. The written summary must be provided to:~~

~~(a) The Committee; and~~

~~(b) If the findings show inconsistencies applicable to a particular school district or school within a school district, the board of trustees of that school district.~~

~~3. The Committee shall review the report submitted pursuant to subsection 2 and take such action as it deems appropriate.]~~ *(Deleted by amendment.)*

Sec. 4. ~~[NRS 389.015 is hereby amended to read as follows:~~

~~389.015 1. The board of trustees of each school district shall administer [examinations] *the high school proficiency examination* in all public *high* schools of the school district. The governing body of a charter school *that enrolls pupils at the high school grade levels* shall administer the same [examinations] *examination* 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 *that enrolls pupils at the high school grade levels* at the same time [during the spring semester. The time for the administration of the examinations must be] *, as* prescribed by the State Board [.~~

~~(c) Administered in each school] *, and* 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)] *(b)* 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.~~

[(c)] ~~*(c)* 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 Superintendent of Public Instruction 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 the subject areas of mathematics and reading tested on the proficiency examination, has at least a 2.75 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.] 5. 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 Superintendent of Public Instruction 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. 5. [NRS 389.632 is hereby amended to read as follows:

389.632 1. [If the Department determines:

(a) That at least one irregularity in testing administration occurred at a school, including, without limitation, a charter school, during 1 school year on the examinations administered pursuant to NRS 389.015, excluding the high school proficiency examination;

(b) That in the immediately succeeding school year, at least one additional irregularity in testing administration occurred at that school on the examinations administered pursuant to NRS 389.015, excluding the high school proficiency examination; and

(c) Based upon the criteria set forth in subsection 5, that the irregularities described in paragraphs (a) and (b) warrant an additional administration of the examinations,

~~➥ the Department shall notify the school and the school district in which the school is located that the school is required to provide for an additional administration of the examinations to pupils who are enrolled in a grade that is required to take the examinations pursuant to NRS 389.015, excluding the high school proficiency examination, or to the pupils the Department determines must take the additional administration pursuant to subsection 6. The additional administration must occur in the same school year in which the irregularity described in paragraph (b) occurred. Except as otherwise provided in this subsection, the school district shall pay for all costs related to the administration of examinations pursuant to this subsection. If a charter school is required to administer examinations pursuant to this subsection, the charter school shall pay for all costs related to the administration of the examinations to pupils enrolled in the charter school.~~

~~2.] If the Department determines that:~~

~~(a) At least one irregularity in testing administration occurred at a school, including, without limitation, a charter school, during 1 school year on the examinations administered pursuant to NRS 389.550;~~

~~(b) In the immediately succeeding school year, at least one additional irregularity in testing administration occurred at that school on the examinations administered pursuant to NRS 389.550; and~~

~~(c) Based upon the criteria set forth in subsection [5,] 2, the irregularities described in paragraphs (a) and (b) warrant an additional administration of the examinations,~~

~~➥ the Department shall notify the school and the school district in which the school is located that the school is required to provide for an additional administration of the examinations to pupils who are enrolled in a grade that is required to take the examinations pursuant to NRS 389.550 or to the pupils the Department determines must take the additional administration pursuant to subsection [6.] 3. The additional administration must occur in the same school year in which the irregularity described in paragraph (b) occurred. Except as otherwise provided in this subsection, the school district shall pay for all costs related to the administration of examinations pursuant to this subsection. If a charter school is required to administer examinations pursuant to this subsection, the charter school shall pay for all costs related to the administration of the examinations to pupils enrolled in the charter school.~~

~~[3. If the Department determines that:~~

~~(a) At least one irregularity in testing administration occurred at a school, including, without limitation, a charter school, during 1 school year on the examinations administered pursuant to NRS 389.015, excluding the high school proficiency examination;~~

~~(b) In the immediately succeeding school year, at least one additional irregularity in testing administration occurred at that school on the examinations administered pursuant to NRS 389.550; and~~

~~(c) Based upon the criteria set forth in subsection 5, the irregularities described in paragraphs (a) and (b) warrant an additional administration of the examinations,~~

~~➥ the Department shall notify the school and the school district in which the school is located that the school is required to provide for an additional administration of the examinations to pupils who are enrolled in a grade that is required to take the examinations pursuant to NRS 389.550 or to the pupils the Department determines must take the additional administration pursuant to subsection 6. The additional administration must occur in the same school year in which the irregularity described in paragraph (b) occurred. Except as otherwise provided in this subsection, the school district shall pay for all costs related to the administration of examinations pursuant to this subsection. If a charter school is required to administer examinations pursuant to this subsection, the charter school shall pay for all costs related to the administration of the examinations to pupils enrolled in the charter school.~~

~~4. If the Department determines that:~~

~~(a) At least one irregularity in testing administration occurred at a school, including, without limitation, a charter school, during 1 school year on the examinations administered pursuant to NRS 389.550;~~

~~(b) In the immediately succeeding school year, at least one additional irregularity in testing administration occurred at that school on the examinations administered pursuant to NRS 389.015, excluding the high school proficiency examination; and~~

~~(c) Based upon the criteria set forth in subsection 5, the irregularities described in paragraphs (a) and (b) warrant an additional administration of the examinations,~~

~~➥ the Department shall notify the school and the school district in which the school is located that the school is required to provide for an additional administration of the examinations to pupils who are enrolled in a grade that is required to take the examinations pursuant to NRS 389.015, excluding the high school proficiency examination, or to the pupils the Department determines must take the additional administration pursuant to subsection 6. The additional administration must occur in the same school year in which the irregularity described in paragraph (b) occurred. Except as otherwise provided in this subsection, the school district shall pay for all costs related to the administration of examinations pursuant to this subsection. If a charter school is required to administer examinations pursuant to this subsection, the charter school shall pay for all costs related to the administration of the examinations to pupils enrolled in the charter school.~~

~~5.]~~ ~~2. In determining whether to require a school to provide for an additional administration of examinations pursuant to this section, the Department shall consider:~~

~~(a) The effect of each irregularity in testing administration, including, without limitation, whether the irregularity required the scores of pupils to be invalidated; and~~

~~(b) Whether sufficient time remains in the school year to provide for an additional administration of examinations.~~

~~[6.] 3. If the Department determines pursuant to subsection [5] 2 that a school must provide for an additional administration of examinations, the Department may consider whether the most recent irregularity in testing administration affected the test scores of a limited number of pupils and require the school to provide an additional administration of examinations pursuant to this section only to those pupils whose test scores were affected by the most recent irregularity.~~

~~[7.] 4. The Department shall provide as many notices pursuant to this section during 1 school year as are applicable to the irregularities occurring at a school. A school shall provide for additional administrations of examinations pursuant to this section within 1 school year as applicable to the irregularities occurring at the school.]~~ *(Deleted by amendment.)*

Sec. 6. ~~[NRS 389.640 is hereby repealed.]~~ *(Deleted by amendment.)*

Sec. 7. Notwithstanding the provisions of NRS 389.015 to the contrary, the norm-referenced examinations required to be administered to pupils enrolled in grades 4, 7 and 10 pursuant to that section must not be administered in the public schools of this State during the 2009-2010 School Year and the 2010-2011 School Year. Any requirements relating to the reporting of test scores of pupils on those examinations that would otherwise be administered during those School Years are also suspended.

~~[Sec. 7.]~~ *Sec. 8.* This act becomes effective on July 1, 2009.

~~TEXT OF REPEALED SECTION~~

~~389.640 Establishment of statewide program for preparation of pupils to take examinations; compliance with program required of school districts and schools; use of additional materials and information.~~

~~1. The Department shall establish a statewide program for use by schools and school districts in their preparation for the examinations that are administered pursuant to NRS 389.015, excluding the high school proficiency examination. The program must:~~

~~(a) Be designed to ensure the consistency and uniformity of all materials and other information used in the preparation for the examinations; and~~

~~(b) Be designed to ensure that the actual examinations administered pursuant to NRS 389.015 are not included within the materials and other information used for preparation.~~

~~2. If a school, including, without limitation, a charter school, or a school district provides preparation for the examinations that are administered pursuant to NRS 389.015, excluding the high school proficiency examination, the school or school district shall comply with the program established pursuant to subsection 1. A school district may use and provide additional materials and information if the materials and information comply~~

~~with the program established by the Department. A school, including, without limitation, a charter school, shall use only those materials and information that have been approved or provided by the Department or the school district.]~~

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. 713 to Senate Bill No. 416 temporarily suspends the requirement of school districts and charter schools to administer the Norm Reference Test to students in grades 4, 7 and 10 for the upcoming biennium.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 10.

Resolution read second time and ordered to third reading.

Assembly Bill No. 20.

Bill read second time and ordered to third reading.

Assembly Bill No. 40.

Bill read second time and ordered to third reading.

Assembly Bill No. 46.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 621.

"SUMMARY—Makes various changes concerning the right of certain persons to purchase or possess a firearm. (BDR 14-271)"

"AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Federal law requires states to transmit to the National Instant Criminal Background Check System records of adjudication of mental illness or incompetence, involuntary admission to mental health facilities and other records which indicate a person is prohibited from purchasing a firearm. Federal law also requires states to implement a program by which a person who was previously adjudicated mentally ill or involuntarily committed can apply to have his right to possess a firearm restored and ties this requirement to certain federal funding for states under the NICS Improvement Amendments Act of 2007. (Public Law 110-180) Nevada law prohibits a person from owning or possessing a firearm if he has been adjudicated as

mentally ill or has been committed to any mental health facility. (NRS 202.360)

Sections 1-4 and 13 of this bill require a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person who has a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a person by reason of insanity or a plea of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

Section 7 of this bill requires the Central Repository to take reasonable steps to ensure that the records transmitted to it by the court are included in each appropriate database of the National Instant Criminal Background Check System. In accordance with federal law, this section also provides a procedure for a person who is the subject of such a record to petition a court to have the record removed from the National Instant Criminal Background Check System and to have his right to possess or purchase a firearm restored.

Section 8 of this bill provides that the records transmitted by the court to the Central Repository are confidential, may not be used for any purpose other than for inclusion in each appropriate database of the National Instant Criminal Background Check System, and no cause of action for damages may be brought for transmission, failure to transmit, delay in transmitting or inaccuracies within such records.

Section 8.5 of this bill authorizes a person who is or believes he is the subject of a record of mental health held by the Central Repository to inspect and correct such records. This section, which is modeled after NRS 179A.150, also requires the Central Repository and the Director of the Department of Public Safety to adopt certain regulations relating to the inspection and correction of such records.

Section 11.5 of this bill requires a court, when appointing a general guardian, to determine whether a proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to federal law.

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

Section 1. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is

made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

7. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. *If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

9. As used in this section ~~[, a "disease]~~ *:*

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. *If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

4. As used in this section ~~[, a "disease]~~ *:*

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. *If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that verdict to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

5. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) *"National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.*

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or his designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency

and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

7. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 5. Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 8.5, inclusive, of this act.

Sec. 6. *"National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.*

Sec. 7. *1. Upon receiving a record transmitted pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act, the Central Repository shall take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System.*

2. Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

(a) The basis for the adjudication reported in the record no longer exists;

(b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and NRS 202.360; and

(c) The information reported in the record must be removed from the National Instant Criminal Background Check System.

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310, the petitioner may not file a petition pursuant to subsection 2 until ~~[5]~~ 3 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

(a) Filed in the court which made the adjudication or finding pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; and

(b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

(a) The basis for the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act concerning the petitioner no longer exists;

(b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and

(c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

6. Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection 5 by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to NRS 433A.310 or section 11.5 of this act, the petitioner must establish the provisions of subsection 5 by clear and convincing evidence.

7. The court, upon entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.

8. Within 5 business days after receiving a record of an order transmitted pursuant to subsection 7, the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act is removed from the National Instant Criminal Background Check System.

9. If the Central Repository fails to remove a record as provided in subsection 8, the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.

10. If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 8. *1. Any record described in section 7 of this act is confidential and is not a public book or record within the meaning of NRS 239.010. A person may not use the record for any purpose other than for inclusion in the appropriate database of the National Instant Criminal Background Check System.*

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 7 or 11.5 of this act, no action for damages may be brought against the person or governmental entity for:

(a) Transmitting or reporting the record or taking any other required action concerning the record;

(b) Failing to transmit or report the record or failing to take any other required action concerning the record;

(c) Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or

(d) Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.

Sec. 8.5. *1. The Central Repository shall permit a person who is or believes he may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.*

2. The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:

(a) The requirements for proper identification of the persons seeking access to the records; and

(b) The reasonable charges or fees, if any, for inspecting records.

3. The Director of the Department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.

4. As used in this section, "information relating to records of mental health" means information contained in a record:

(a) Transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; or

(b) Transmitted to the National Instant Criminal Background Check System pursuant to section 7 of this act.

Sec. 9. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, *and section 6 of this act* have the meanings ascribed to them in those sections.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:

(1) A danger to himself or others; or

(2) Lacks the capacity to contract or manage his own affairs.

Sec. 12. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell or otherwise dispose of any firearm or ammunition to another person if he has actual knowledge that the other person:

(a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless he has received a pardon and the pardon does not restrict his right to bear arms;

(b) Is a fugitive from justice;

(c) Has been adjudicated as mentally ill or has been committed to any mental health facility; or

(d) Is illegally or unlawfully in the United States.

2. A person who violates the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

(a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not precluded from dealing in firearms or ammunition; or

(b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. § 925(c) [.] *or section 7 of this act.*

Sec. 13. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or others if allowed his liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention of the person for additional periods not to exceed 6 months each. For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

4. If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

5. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. This act becomes effective on January 1, 2010.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Amendment No. 621 to Assembly Bill No. 46 changes the waiting period for filing a petition from five years to three years.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 63.

Bill read second time and ordered to third reading.

Assembly Bill No. 75.

Bill read second time and ordered to third reading.

Assembly Bill No. 100.

Bill read second time.

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

Amendment No. 617.

"SUMMARY—Revises provisions governing education. (BDR 34-424)"

"AN ACT relating to education; revising the duties of the Deputy Superintendent for Administrative and Fiscal Services in the Department of Education relating to charter schools; revising provisions governing charter schools and university schools for profoundly gifted pupils; revising provisions governing the annual reports of school districts and charter schools; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Deputy Superintendent for Administrative and Fiscal Services in the Department of Education investigates, inspects and reports on the funds and accounts of school districts. (NRS 385.315) Section 1 of this bill requires the Deputy Superintendent to perform similar duties for the funds and accounts of charter schools and university schools for profoundly gifted pupils.

The governing body of a charter school is required to appoint a trustee upon closure of the school. (NRS 386.536) Section 2 of this bill provides that the trustee appointed by the governing body is subject to the approval of the sponsor and requires the sponsor to make the appointment if the governing body is not able to do so. Section 2 also provides that if the sponsor of a charter school provides financial compensation to the administrator or person appointed by the governing body, the sponsor may receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation for a period not to exceed 6 months.

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) Section 3 of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if reasonable evidence of noncompliance ~~[concerning the educational progress]~~ *in achieving the educational goals and objectives of the charter school* exists, the charter school shall submit to an annual performance audit.

Existing law provides that upon the request of a parent or legal guardian of a pupil enrolled in a charter school, the board of trustees of the school district in which the charter school is located shall authorize the pupil to participate in a class, extracurricular activity and sports within the school district under certain circumstances. Section 4 of this bill amends existing law to provide for such participation in the school district in which the pupil resides rather than the school district in which the charter school is located. (NRS 386.560)

The sponsor of a charter school may request, upon completion of each school year, reimbursement from the governing body of the school for the administrative costs associated with sponsorship. The total amount of such administrative costs must not exceed a specified percentage of the total amount of money apportioned to the charter school during the year. (NRS 386.570) Section 5 of this bill revises the schedule of payments for reimbursement of administrative costs from yearly to quarterly ~~[.]~~ *and authorizes a charter school to apply for a delay in the payment of a quarterly reimbursement if a financial hardship exists.* Section 5 also provides that to determine the maximum amount of administrative costs, the total amount apportioned to the charter school during the year must be adjusted by the final computation of apportionment for the school.

Sections 6 and 9 of this bill revise provisions governing the annual reports of charter schools and school districts. (NRS 386.600, 387.303)

The Department of Education is required to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) Section 8 of this bill requires the development of such a formula and minimum expenditures for charter schools.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) Section 7 of this bill requires an annual report to be made by the Department for each charter school sponsored by the State Board.

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

Section 1. NRS 385.315 is hereby amended to read as follows:

385.315 In addition to his other duties, the Deputy Superintendent for Administrative and Fiscal Services, under the direction of the Superintendent of Public Instruction, shall:

1. Investigate any claim against any school fund or ~~[separate]~~ *an* account established under NRS 354.603 *, 386.570 or 392A.083, as applicable,* whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the county auditor ~~[.]~~ *, the sponsor of the charter school or the Department.* 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 *, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils* who drew *or authorized* 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 *, governing body of the charter school or governing body of the university school for profoundly gifted pupils* draw a check or order in payment of the claim from ~~[a separate]~~ *an* account established under NRS 354.603 ~~[.]~~ *, 386.570 or 392A.083, as applicable.* 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 *, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils, as applicable,* to draw his warrant or its check or order on an account established under NRS 354.603 *, 386.570 or 392A.083, as applicable,* for the claim, and the county auditor *,* ~~[or]~~ the board of trustees *or the appropriate governing body* shall immediately draw his warrant or its check or order in payment of the claim.

2. Inspect the record books and accounts of boards of trustees, *governing bodies of charter schools and governing bodies of university schools for profoundly gifted pupils* and enforce the uniform method of keeping the financial records and accounts of school districts ~~[.]~~ *, charter schools and university schools for profoundly gifted pupils.*

3. Inspect 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 the ~~[separate]~~ accounts established by *:*

(a) The boards of trustees under NRS 354.603 ~~[,]~~ and report the condition of the accounts to the respective boards of county commissioners and county treasurers.

(b) The governing bodies of charter schools under NRS 386.570 and report the condition of the accounts to the respective sponsors of the charter schools and governing bodies of the charter schools.

(c) The governing bodies of university schools for profoundly gifted pupils under NRS 392A.083 and report the condition of the accounts to the Board of Regents of the University of Nevada and the respective governing bodies of the university schools.

Sec. 2. NRS 386.536 is hereby amended to read as follows:

386.536 1. Except as otherwise provided in ~~[subsection 2,]~~ *subsections 2 and 3,* if a charter school ceases to operate voluntarily or upon revocation of its written charter, the governing body of the charter school shall appoint an administrator of the charter school *, subject to the approval of the sponsor of the charter school,* to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

(a) Charter school;

(b) Employees of the charter school; and

(c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. *If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.*

4. The governing body of the charter school *or the sponsor of the charter school* may, to the extent practicable, provide financial compensation to the administrator or person appointed ~~[pursuant to subsection 2]~~ to carry out the provisions of this section. *If the sponsor of the charter school provides such financial compensation, the sponsor is entitled to receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.*

Sec. 3. 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 contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without ~~[showing good cause for such a request.]~~ *reasonable evidence of noncompliance ~~[concerning the educational progress]~~ in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance ~~[concerning the educational progress]~~ in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Such a charter school:*

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

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. 4. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ *pupil resides* shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ *pupil resides* shall authorize the pupil to participate in sports at the public school that he would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees

so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 5. 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 *an account with* 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]~~ *each* school ~~[year,]~~ *quarter,* 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]~~ *quarter* if the sponsor provided administrative services during that school ~~[year.]~~ *quarter.* The request must include an itemized list of those costs. ~~[Upon]~~ *Unless a delay is granted pursuant to subsection 9, 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 the charter school. If a governing body fails to pay the reimbursement ~~[,]~~ *pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection 9,* the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year

pursuant to NRS 387.124 [.] , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

(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 [.] , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 [.] , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

(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 [.] , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the

Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

9. The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.

Sec. 6. NRS 386.600 is hereby amended to read as follows:

386.600 1. On or before November 15 of each year, the governing body of each charter school shall submit to the sponsor of the charter school, the Superintendent of Public Instruction and the Director of the Legislative Counsel Bureau for transmission to the Majority Leader of the Senate and the Speaker of the Assembly a report that includes:

(a) A written description of the progress of the charter school in achieving the mission and goals of the charter school set forth in its application.

(b) ~~[For each licensed employee and nonlicensed teacher employed by the charter school on October 1 of that year:~~

~~(1) The amount of salary of the employee; and~~

~~(2) The designated assignment, as that term is defined by the Department, of the employee.~~

~~(c)]~~ For each fund maintained by the charter school, including, without limitation, the general fund of the charter school 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 governing body 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 final budget of the charter school, 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.

~~[(d) The count of pupils who are enrolled in a charter school in:~~

~~(1) Kindergarten;~~

~~(2) Grades 1 to 12, inclusive; and~~

~~(3) Special education pursuant to NRS 388.440 to 388.520, inclusive.~~

~~(e)]~~ *(c)* The actual expenditures of the charter school in the fiscal year immediately preceding the report.

~~[(f)]~~ *(d)* The proposed expenditures of the charter school for the current fiscal year.

~~[(g)]~~ *(e)* The salary schedule for licensed employees and nonlicensed teachers in the current school year and a statement of whether salary negotiations for the current school year have been completed. If salary negotiations have not been completed at the time the salary schedule is submitted, the governing body shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations.

~~[(h)]~~ *(f)* The number of employees eligible for health insurance within the charter school for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~[(i)]~~ *(g)* The rates for fringe benefits, excluding health insurance, paid by the charter school for its licensed employees in the preceding and current fiscal years.

~~[(j)]~~ *(h)* 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.

2. On or before November 25 of each year, the Superintendent of Public Instruction 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 governing body pursuant to subsection 1.

3. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues and expenditures of the charter schools with the apportionment received by those schools from the State Distributive School Account for the preceding year.

Sec. 7. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the *State Board,* board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the *Department, the* board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the *State Board, the* board of trustees or *the* institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the *Department, the* school district or *the* institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 8. NRS 387.206 is hereby amended to read as follows:

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula *for each school district and a formula for each charter school* for determining the minimum amount of money that each school district *and each charter school* is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts [.] *and charter schools.*

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district *and each charter school* within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district *or charter school* must expend for textbooks, instructional supplies and instructional hardware for that fiscal year.

3. On or before January 1 of each year, the Department shall determine whether each school district *and each charter school* has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303 [.] *and the charter school pursuant to NRS 386.600.*

4. Except as otherwise provided in subsection 5, if the Department determines that a school district *or charter school* has not expended the required minimum amount of money set forth in the notice provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district *or charter school* in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district *or charter school* is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district *or charter school* for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

6. If the actual enrollment of pupils in a charter school is less than the enrollment included in the projections used in the charter school's final budget required pursuant to NRS 386.550, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

Sec. 9. 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 Superintendent of Public Instruction 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)]~~ *(c)* The school district's proposed expenditures for the current fiscal year.

~~[(e)]~~ *(d)* 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 Superintendent of Public Instruction 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)]~~ *(e)* The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 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 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction 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)]~~ *(f)* 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)]~~ *(g)* 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)]~~ *(h)* 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)]~~ *(i)* 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 Superintendent of Public Instruction 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 Superintendent of Public Instruction:

(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 Superintendent of Public Instruction 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 Superintendent of Public Instruction 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. 10. NRS 392A.083 is hereby amended to read as follows:

392A.083 1. Each pupil who is enrolled in a university school for profoundly gifted pupils, including, without limitation, a pupil who is enrolled in a program of special education in a university school for profoundly gifted pupils, must be included in the count of pupils in the school district in which the school is located 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 school attendance pursuant to NRS 392.070.

2. A university school for profoundly gifted pupils 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.

3. If a university school for profoundly gifted pupils receives money for special education program units directly from this State, the amount of money for special education that the school district pays to the university school for profoundly gifted pupils may be reduced proportionately by the amount of money the university school received from this State for that purpose.

4. All money received by a university school for profoundly gifted pupils from this State or from the board of trustees of a school district must be deposited in *an account with* a bank, credit union or other financial institution in this State.

5. The governing body of a university school for profoundly gifted pupils may negotiate with the board of trustees of the school district in which the school is located or the State Board for additional money to pay for services that the governing body wishes to offer.

6. To determine the amount of money for distribution to a university school for profoundly gifted pupils in its first year of operation in which state funding is provided, the count of pupils who are enrolled in the university school must initially be determined 30 days before the beginning of the school year of the school district in which the university school is located, based upon the number of pupils whose applications for enrollment have been approved by the university school. The count of pupils who are enrolled in a university school for profoundly gifted pupils must be revised on the last day of the first school month of the school district in which the university school is located for the school year, based upon the actual number of pupils who are enrolled in the university school.

7. Pursuant to subsection 6 of NRS 387.124, the governing body of a university school for profoundly gifted pupils may request that the apportionments made to the university school in its first year of operation be

paid to the university school 30 days before the apportionments are otherwise required to be made.

8. If a university school for profoundly gifted pupils ceases to operate pursuant to this chapter during a school year, the remaining apportionments that would have been made to the university school pursuant to NRS 387.124 for that school year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the university school reside.

9. If the governing body of a university school for profoundly gifted pupils uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the university school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 11. This act becomes effective on July 1, 2009.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 617 to Assembly Bill No. 100 clarifies that the sponsor of a charter school and the Department of Education shall not request a performance audit of the charter school more frequently than every three-years, without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school as submitted in its annual report.

It also authorizes a charter school to apply for delay in the payment of a quarterly reimbursement to the sponsor of the charter school if a financial hardship exists.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 116.

Bill read second time and ordered to third reading.

Assembly Bill No. 117.

Bill read second time and ordered to third reading.

Assembly Bill No. 119.

Bill read second time and ordered to third reading.

Assembly Bill No. 123.

Bill read second time and ordered to third reading.

Assembly Bill No. 129.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 604.

"SUMMARY—Revises provisions governing common-interest communities. (BDR 10-34)"

"AN ACT relating to common-interest communities; providing that the provisions governing common-interest communities do not modify the tariffs, rules and standards of a public utility; requiring the governing documents of an association to be consistent with the tariffs, rules and

standards of a public utility; prohibiting an association from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill: (1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of associations of common-interest communities must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Section 2 of this bill prohibits an association of any common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles ~~[.]~~ *under certain circumstances. (NRS 116.350)*

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.

2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.

3. As used in this section, "public utility" has the meaning ascribed to it in NRS 704.020.

Sec. 2. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of recreational vehicles, watercraft, trailers or commercial ~~*[motor]*~~ vehicles in the common-interest community to the extent authorized by law.

3. In any common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~[or in front of]~~ the unit of a subscriber or consumer, while the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~[or in front of]~~ his unit, if the person is:

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to emergency requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~[or in front of]~~ the unit of a person to whom law enforcement or emergency services are being provided, while the person is engaged in his official duties; or

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~[or in front of]~~ his unit, if the person is:

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. An association may require that a person parking a utility service vehicle, law enforcement vehicle or emergency services vehicle as set forth in subsection 3 provide written confirmation from his employer that the person is qualified to park his vehicle in the manner set forth in subsection 3.

5. As used in this section:

(a) ~~["Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.~~

~~(b)]~~ "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

~~[(c)]~~ (b) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

~~[(d)]~~ (c) "Utility service vehicle" means any ~~[commercial]~~ motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity,

gas, water, sanitary sewer, telephone, cable or community antenna service; and

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the ~~[commercial]~~ motor vehicle is owned, leased or rented by the utility.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Carlton and Lee.

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

SENATOR CARE:

The amendment clarifies that a person may park a utility service vehicle in a designated parking area associated with that unit or in a common parking area in a common interest community.

It limits the service vehicles that may be brought home to vehicles used in responding to emergency requests for public utility service; and it authorizes an association to require written confirmation from the individual's employer that the person must bring the vehicle home in order to respond to emergency requests for service.

SENATOR CARLTON:

In reading section 2, subsection 3, where it states "In an area designated for parking for visitors, in a designated parking area or common parking area, or in the driveway," does this say that the common interest community in the their documents could say to the Highway Patrol officer, "You are not allowed to park your patrol car in the driveway, you must park it in the common parking area." This is on page 3, lines 20 and 21. Would this language mandate that if the documents say these vehicles have to be parked in the common area, would the officer not be allowed to park their Highway Patrol car in their own driveway?

SENATOR CARE:

No, that is not the case. The reason the issue of the driveway came up is because the foundation under the driveway is somewhat weaker than a street foundation. There was discussion about the liability of the homeowner to the unit if one of these heavy trucks is parked in a driveway. We would encourage them to park in a designated parking area or common parking area, but there is nothing that would suggest they cannot park in the driveway.

SENATOR CARLTON:

When I read this, it appears that they could put in the CC&Rs that these types of vehicles will be in the designated area. That is my concern. If there is a Highway Patrol car in my neighborhood, I would like it to be parked in the driveway. Could I have clarification if the Homeowner's Association will be able to put into their paperwork that someone will not be able to park their car in the driveway?

SENATOR CARE:

The bill says, "The Executive Board shall not and the governing documents must not prohibit a person from" and then it addresses the 20,000-pound vehicle and about parking a law-enforcement emergency vehicle. The language "or on the driveway" is in the original bill and that stays in. We are just adding the language about a designated parking area or common parking area in the amendment.

SENATOR LEE:

On page 4, the word "commercial" has been removed from the "utility service vehicle" description. What about a person who works for a cable company who has a ladder on their truck? Under "sanitary sewer," if a plumber comes home from work and has equipment on his truck, I question this. Why was "commercial" removed, and it is any vehicle that may be "used in the furtherance of repairing, maintaining or operating."

SENATOR CARE:

I do not recall why the word commercial was stricken, but "utility service vehicle" by its nature is a commercial vehicle.

Senator Care moved that Assembly Bill No. 129 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Assembly Bill No. 154.

Bill read second time.

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

Amendment No. 630.

"SUMMARY—Revises provisions governing the policies of school districts relating to criminal gang activity. (BDR 34-143)"

"AN ACT relating to education; revising provisions governing the establishment by the board of trustees of a school district of a policy prohibiting criminal gang activity on school property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the boards of trustees of school districts to establish policies prohibiting the activities of criminal gangs on school property. (NRS 392.4635) This bill makes the establishment of that policy mandatory. ~~[and requires the policy to include the provision of training for the prevention of criminal gang activity.]~~

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

Section 1. NRS 392.4635 is hereby amended to read as follows:

392.4635 1. The board of trustees of each school district ~~[may]~~ *shall* establish a policy that prohibits the activities of criminal gangs on school property.

2. The policy established pursuant to subsection 1 ~~[must]~~ may include ~~[:]~~ , without limitation:

(a) The provision of training for the prevention of the activities of criminal gangs on school property.

(b) If the policy includes training:

(1) A designation of the grade levels of the pupils who must receive the training.

~~[(c)]~~ (2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to ~~[paragraph (b).]~~ subparagraph (1).

➥ *The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.*

~~[3. The policy established pursuant to subsection 1 may]~~

(c) Provisions which prohibit: ~~*[include, without limitation, provisions which:*~~

~~*(a) Prohibit:]*~~

(1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and

~~[(b)]~~ *(2)* Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.

~~[2. Each policy that prohibits the activities of criminal gangs on school property may]~~

(d) Provisions which provide

~~*[(b) Provide]*~~ for the suspension or expulsion of pupils who violate the policy.

3. *The board of trustees of each school district may develop the policy required pursuant to subsection 1 in consultation with:*

(a) Local law enforcement agencies;

(b) School police officers, if any;

(c) Persons who have experience regarding the actions and activities of criminal gangs;

(d) Organizations which are dedicated to alleviating criminal gangs or assisting members of criminal gangs who wish to disassociate from the gang; and

(e) Any other person deemed necessary by the board of trustees.

4. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 213.1263.

Sec. 2. 1. On or before June 30, 2010, the board of trustees of each school district shall submit to the Legislative Committee on Education a report concerning the policy that prohibits the activities of criminal gangs on school property established pursuant to NRS 392.4635, as amended by section 1 of this act.

2. The report must include, without limitation:

(a) A copy of the policy adopted by the board of trustees of the school district; and

(b) A summary of the activities of the board of trustees to ensure that the policy is carried out.

~~[Sec. 2.]~~ *Sec. 3.* This act becomes effective on July 1, 2009.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

This amendment requires the Board of Trustees of each school district to establish a policy that prohibits the activities of criminal gangs on school property. However, the amendment no longer requires the policy to include certain provisions such as training for the prevention of criminal gangs on school property.

It also authorizes the Board of Trustees to develop the policy in consultation with several groups including law-enforcement school police, people who have experience with these activities and organizations dedicated to alleviating criminal gangs, and it requires the Board of

Trustees of each school district to submit to the Legislative Committee on Education a report concerning the policy prohibiting the activities of criminal gangs on school property. The report must include a copy of the policy and a summary of the activities of the Board to ensure that the policy has been carried out.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 173.

Bill read second time and ordered to third reading.

Assembly Bill No. 193.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 680.

"SUMMARY—Provides for reporting by certain governmental entities concerning ~~[the collection of fees and taxes.]~~ *certain financial information.* (BDR S-243)"

"AN ACT relating to state financial administration; requiring certain governmental entities to report periodically to the Interim Finance Committee concerning ~~[the collection and abatement of fees and taxes;]~~ *certain financial information;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires certain governmental entities of this State, beginning with the fourth quarter of Fiscal Year 2008-2009 and concluding with the third quarter of Fiscal Year 2010-2011, to report to the Interim Finance Committee within 60 days after the end of the immediately preceding fiscal quarter ~~[regarding]~~ *certain financial information, including* the taxes and fees that: (1) were legally due to be paid to the entity; (2) the entity was able to collect; and (3) the entity did not collect or was otherwise unable to collect, to the extent that such information is available to the entity. This bill also requires the Commission on Economic Development to report to the Interim Finance Committee on the same time schedule regarding each tax or fee that the Commission abated, exempted or otherwise waived and the duration of the applicable abatement, exemption or waiver. All reports required to be filed pursuant to this bill are required to be submitted on a form provided by the Director of the Legislative Counsel Bureau.

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

Section 1. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the following governmental entities shall, within 60 days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2:

(a) The Department of Taxation.

(b) The State Gaming Control Board.

(c) The Department of Motor Vehicles.

(d) The Department of Employment, Training and Rehabilitation.

(e) The Department of Business and Industry.

(f) The Office of the State Controller.

(g) The Office of the Secretary of State.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include the following components:

(a) A statement of all taxes and fees that were legally due to be paid to the particular governmental entity in the immediately preceding fiscal quarter;

(b) A statement of the total of all taxes and fees that the particular governmental entity actually collected in the immediately preceding fiscal quarter;

(c) A statement of all taxes and fees that the particular governmental entity, in the immediately preceding fiscal quarter, failed to collect or otherwise did not collect as the result of an abatement, exemption or another reason, to the extent that such information is available to the governmental entity;

(d) A statement of ~~[the]~~ :

(1) The total amount of all taxes and fees that remain legally due to be paid to the particular governmental entity for any past fiscal years up to and including the immediately preceding fiscal quarter of the current fiscal year; *and*

(2) Except if the entity is the Office of the State Controller, the portion of the total amount described in subparagraph (1) that the entity assigned to the State Controller for collection; and

(e) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

3. In addition to the components set forth in subsection 2, the Department of Taxation shall include in its report filed pursuant to subsection 1 a list of the special districts to which an exemption from the requirements of the Local Government Budget and Finance Act for the filing of certain budget documents and audit reports was granted pursuant to NRS 354.475.

Sec. 2. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the Commission on Economic Development shall, within 60 days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include a description of every abatement, exemption or other type of waiver that the Commission on Economic Development granted with respect to a tax or fee during the immediately preceding fiscal quarter. The description must include, without limitation:

(a) An estimate of the total amount of money the payment of which was abated, exempted or otherwise waived;

(b) The duration of the abatement, exemption or other type of waiver; and

(c) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

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.

Amendment No. 680 to Senate Bill No. 193 makes two changes. It requires that the information reported by each agency, except the Office of the State Controller, include the amount of any collections assigned to the State Controller for collection.

It requires that the information reported by the Department of Taxation include a list of the special districts that have received an exemption, pursuant to NRS 354.465 from the requirements of the Local Government Budget and Finance Act. This is the first of two bills that has to do with trying to get hold of the accounting of funds that might be missing from local governments through abatements and exemptions.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 204.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 643.

"SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-920)"

"AN ACT relating to common-interest communities; requiring the executive board of a unit owners' association of a common-interest community to make available to each unit's owner certain information concerning the association's collection policy; extending the period of time certain liens have priority over ~~[other]~~ certain *other* security interests; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, not less than 30 days or more than 60 days before the beginning of the fiscal year of a unit owners' association of a common-interest community, the executive board of the association must provide each unit's owner with certain information pertaining to the budget of the association. (NRS 116.31151) Section 1 of this bill requires the executive board to also make available to each unit's owner information pertaining to a policy established by the association for the collection of any fees, fines, assessments or costs imposed against a unit's owner, including the unit's owner's responsibility to pay such fees, fines, assessments or costs and the rights of the association to recover the fees, fines, assessments or costs if the unit's owner does not pay them.

Under existing law, a unit-owners' association of a common-interest community has priority over certain other creditors with respect to a lien on a

unit for any construction penalty imposed against the unit's owner, any assessment levied against the unit or certain fines imposed against the unit's owner. Such a lien is also prior to a first security interest on the unit recorded before the assessments became delinquent to the extent of the assessments for common expenses based on the periodic budget adopted by the association which would have become due in the absence of acceleration during the 6 months preceding an action to enforce the lien. *(NRS 116.3116)* Section 2 of this bill changes the 6-month threshold for super priority of a lien for an association to ~~[2 years, if the unit is a single-family detached dwelling. (NRS 116.3116)]~~ *9 months, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If such federal regulations require a shorter period, the period must be determined in accordance with the federal regulations, except that the period must not be less than the 6 months preceding an action to enforce the lien, as currently provided in existing law.*

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

Section 1. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.

Sec. 2. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the ~~*[2 years immediately preceding institution of an action to enforce the lien if the unit is a single family detached dwelling or during the 6]*~~ *9* months immediately preceding institution of an action to enforce the lien ~~[.]~~ ~~*[if the unit is any other type of dwelling.]*~~ *, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien.* This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment changes the threshold for a super priority lien from six months to nine months, unless certain federal regulations require a shorter period.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 206.

Bill read second time and ordered to third reading.

Assembly Bill No. 207.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 609.

"SUMMARY—Makes various changes concerning common-interest communities. (BDR 10-694)"

"AN ACT relating to common-interest communities; revising certain requirements for limited-purpose associations that are created for a rural agricultural residential common-interest communities; providing that such a limited-purpose association is a public body for purposes of the Open Meeting Law; providing that a study of the reserves of an association may be conducted by a person without a permit under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a limited-purpose association that is created for a rural agricultural residential common-interest community must comply with certain requirements set forth in chapter 116 of NRS. Section 1 of this bill exempts such a limited-purpose association from the requirement to: (1) pay a fee to the Real Estate Administrator for each unit in the association as required pursuant to NRS 116.31155 ~~[.]~~ , *except that the association must pay the fees if it intends to use the services of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels;* (2) comply with certain rules for meetings of the executive board; and (3) conduct a study every 5 years of the reserves required to repair, replace and restore the major components of the common elements of the community, and take certain actions concerning the study. (NRS 116.1201, 116.31083, 116.31152, 116.31155)

Existing law requires each limited-purpose association that is created for a rural agricultural residential common-interest community to comply with chapter 241 of NRS, which is commonly referred to as the Open Meeting Law. (NRS 116.31075) Section 2 of this bill amends the definition of "public body" for purposes of the Open Meeting Law to include a limited-purpose association that is created for a rural agricultural residential common-interest community. (NRS 241.015) Thus, such a limited-purpose association will be subject to enforcement action by the Attorney General if the association violates the Open Meeting Law. (NRS 241.037)

Existing law provides that at least once every 5 years, the executive board of an association shall cause a study of the reserves of the association required to repair, replace and restore the major components of the association to be conducted by a person who holds a permit to conduct such a study. (NRS 116.31152) Sections 1.3 and 1.7 of this bill provide that if the common-interest community contains 20 or fewer units and is located in a county with a population of 50,000 or less (currently counties other than Carson City, Clark and Washoe Counties), the study may be conducted by any person whom the executive board deems qualified to conduct the study.

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

Section 1. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155 ~~[.]~~ ~~*[, unless]*~~ *, except that if the limited-purpose association is created for a rural agricultural residential common-interest community* ~~*[,]*~~ *, the limited-purpose association is not required to pay the fee unless the association intends to use the services of the Ombudsman;*

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038 ~~[,]~~ *;*

(II) NRS 116.31083 and 116.31152 ~~[;]~~ *, unless the limited-purpose association is created for a rural agricultural residential common-interest community;* and

~~[(II)]~~ *(III)* NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 1.3. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. ~~[The]~~ *Except as otherwise provided in this subsection, the* study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS. *If the common-interest community contains 20 or fewer units and is located in a county whose population is 50,000 or less, the study of the reserves required by subsection 1 may be conducted by any person whom the executive board deems qualified to conduct the study.*

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 1.7. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section ~~[.]~~ *and subsection 2 of NRS 116.31152,* a person shall not act as a reserve study specialist unless the person holds a permit.

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists who hold permits.

3. The Division may investigate any reserve study specialist who holds a permit to ensure that the reserve study specialist is complying with the provisions of this chapter and chapters 116 and 116B of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist who holds a permit has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a permit to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the permit of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

Sec. 2. NRS 241.015 is hereby amended to read as follows:

241.015 As used in this chapter, unless the context otherwise requires:

1. "Action" means:

(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. "Meeting":

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

3. Except as otherwise provided in this subsection, "public body" means ~~[any]~~ *:*

(a) Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or

in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405 ~~.~~ *; and*

(b) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

➥ "Public body" does not include the Legislature of the State of Nevada.

4. "Quorum" means a simple majority of the constituent membership of a public body or another proportion established by law.

Sec. 3. This act becomes effective on July 1, 2009.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Amendment No. 609 to Assembly Bill No. 207 provides that any rural agricultural residential common-interest community that chooses to register with the Ombudsman and utilize the services of that office will be required to pay the fee charged to fund that office.

Amendment adopted.

Bill ordered reprinted and reengrossed.

Senator Care moved that Assembly Bill No. 207 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Assembly Bill No. 239.

Bill read second time and ordered to third reading.

Assembly Bill No. 251.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 622.

"SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-555)"

"AN ACT relating to common-interest communities; revising the procedures for voting for a member of the executive board of an association under certain circumstances; requiring that the regulations governing the issuance of certificates for community managers must contain certain provisions relating to persons who formerly engaged in community management; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the executive board of a unit-owners' association may nominate a person to serve on the executive board and that qualified members of the association may also have their names placed on the ballot along with the nominees for election to the executive board. Existing law also provides that the election of any member of the executive

board of a unit-owners' association must be conducted by secret written ballot, unless the declaration of the association provides that voting rights may be exercised by delegates or representatives. (NRS 116.31034) Section 1 of this bill provides that, before notice is provided to each unit's owner of his eligibility to serve on the executive board, the executive board may determine that if the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board, the appropriate officer of the association will send a notice to each unit's owner informing each unit's owner that a unit's owner who is qualified to be a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice. If the executive board decides to send such a notice and, at the closing of the period for nominations, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association must conduct an election for membership on the executive board. If, after any additional nominations, the number of candidates nominated for membership on the executive board continues to be less than or equal to the number of open positions on the executive board, then such nominees shall be deemed to be duly elected members of the executive board.

Existing law requires the Commission on Common-Interest Communities and Condominium Hotels to adopt regulations governing the issuance of certificates for community managers. (NRS 116A.410) Section 2 of this bill provides that those regulations must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision by another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

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

Section 1. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. *Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:*

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section and the nominated candidates shall be deemed to be duly elected to the executive board unless:

(1) A unit's owner who is qualified to serve on the executive board nominates himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and

(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.

(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.

6. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and

(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.

7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

8. Each person ~~[whose name is placed on the ballot]~~ *who is nominated* as a candidate for a member of the executive board *pursuant to subsection 4 or 5* must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot *or, in the event ballots are not prepared and mailed pursuant to subsection 6,* in the ~~[manner established *for distribution of ballots* in the bylaws]~~ *next regular mailing* of the association.

~~[6.]~~ *9.* Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

~~[7.]~~ *10.* An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

~~[8.]~~ *11.* ~~[The]~~ *Except as otherwise provided in subsection 6, the* election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~[9.]~~ *12.* Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to

the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 2. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) *Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.*

(d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(d)]~~ *(e)* Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(e)]~~ *(f)* Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

Sec. 3. This act becomes effective on July 1, 2009.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Amendment No. 622 to Assembly Bill No. 251 specifies that disclosures associated with certain nominations and elections to the executive board must be distributed in the next regular mailing of the association.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 262.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 601.

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

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~*[3. The]*~~

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

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

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

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

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

~~*[5.]*~~ *8. In addition to any other remedy or penalty, the county clerk may:*

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

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

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

(a) Be at least 21 years of age.

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

(c) Not have been convicted of a felony.

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

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

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

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

2. A marriage licensing agent shall:

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

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

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

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

Sec. 1.6. *1. An applicant for certification as a marriage licensing agent shall submit to the county clerk the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. The county clerk shall include the statement required pursuant to subsection 1 in:

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

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

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

(a) Fails to complete or submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the county clerk shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 1.7. *1. If the county clerk receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended at the end of the 30th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

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

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

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

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

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

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

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

(a) Either parent; or

(b) His legal guardian.

Sec. 2. (Deleted by amendment.)

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

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

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

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

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

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

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

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

(b) A passport.

(c) A birth certificate and ~~[a]~~ *:*

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

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

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

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

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

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

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

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

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

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of

application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk *or marriage licensing agent* shall not require any evidence to verify a social security number.

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

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

(a) Personally given before the clerk;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A passport.

(c) A birth certificate and:

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Personally given before the clerk;

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

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

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

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

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

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

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

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

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

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

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

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

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

Marriage License

(Expires 1 Year After Issuance)

State of Nevada }
}ss.
County of..... }

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

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

.....

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

.....

Deputy clerk

.....

Name of Commercial Wedding Chapel, if applicable

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. This section does not prohibit:

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

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

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

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

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

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

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

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

STATE OF NEVADA
MARRIAGE CERTIFICATE

State of Nevada }
}ss.
County of..... }

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

.....
Signature of person performing
the marriage

(Seal of County Clerk)

.....
Name under signature typewritten
or printed in black ink

.....
County Clerk

.....
Official title of person performing
the marriage

.....
.....
Couple's mailing address

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

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

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

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

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

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

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

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

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

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Amendment No. 601 to Assembly Bill No. 262 does five things. It corrects the hours of operation for marriage license offices in Clark and Washoe Counties; clarifies that a couple may be rejoined in marriage only under certain circumstances; provides that only a social security number and information concerning an applicant's parents may be left unanswered on the marriage application; clarifies that certain regulations are only required in counties choosing to allow for marriage license agents; and ties the marriage license agent to the chapel where he is employed and to the county in which the chapel is located.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 682.

"SUMMARY—Revises provisions governing the publication of certain information relating to property taxes. (BDR 32-714)"

"AN ACT relating to property taxes; revising provisions governing the publication of certain information relating to property taxes for counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires a board of county commissioners to publish the annual list of all taxpayers on the secured roll and the property values only on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor, thereby removing the requirement to publish this information in a newspaper of general circulation in the county or to mail the list to each taxpayer. *Section 1 also requires that the notices of completion of the secured property tax roll include a statement indicating that the secured roll is available on the Internet and providing the Internet address.*

Section 2 of this bill amends the requirements for publishing notices of delinquencies for counties by providing for publication of such notices on the website or other Internet site.

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

Section 1. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county. *The transmitted, posted and published notices must each contain a statement indicating that the secured roll is available on the Internet and state the Internet address where the secured roll is available. The statement published in the newspaper must be prominently displayed in the format used for advertisements in at least 10-point bold type or font.*

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow him a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. ~~[Except as otherwise provided in subsection 4, each]~~ *Each* board of county commissioners shall by resolution, before December 1 of any fiscal year in which an assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor ~~[:]~~ *to cause such list and valuations to be posted on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.*

~~[(a) To cause such list and valuations to be printed and delivered by the county assessor or mailed by him on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; or~~

~~(b) To cause such list and valuations to be published once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county.~~

~~➥ In addition to complying with paragraph (a) or (b), the]~~

4. *The* list and valuations may also be posted in a public area of the public libraries and branch libraries located in the county, ~~[in a public area of]~~ the county courthouse ~~[and]~~ *or* the county office building in which the county assessor's office is located . ~~[, and on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.~~

~~4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection 3, to taxpayers whose property is assessed at $1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.]~~

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever property is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal. *The written notice must include a statement in at least 10-point bold type or font indicating that the secured roll is available on the Internet and state the Internet address where the secured roll is available.*

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site ~~[, if any,]~~ that is operated or administered by or on behalf of the county or the county assessor.

Sec. 2. NRS 361.565 is hereby amended to read as follows:

361.565 1. ~~[Except as otherwise provided in subsection 3, if]~~ *If* the tax remains delinquent 30 days after the first Monday in April of each year, the tax receiver of the county shall cause notice of the delinquency to be published at least once *on the website or other Internet site that is operated or administered by or on behalf of the county or county assessor* ~~[in the newspaper which publishes the list of taxpayers]~~ pursuant to NRS 361.300. ~~[If there is no newspaper in the county, the notice must be posted in at least five conspicuous places within the county.]~~

2. The cost of publication in each case must be charged to the delinquent taxpayer, and is not a charge against the State or county. The publication must be made at not more than legal rates.

3. ~~[If the delinquent property consists of unimproved real estate assessed at a sum not exceeding $25, the notice must be given by posting a copy of the notice in three conspicuous places within the county without publishing the notice in a newspaper.~~

~~4.]~~ The notice must contain the information required for a notice mailed pursuant to NRS 361.5648.

Sec. 3. This act becomes effective on July 1, 2009.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

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

The committee adopted this amendment to force the counties to advertise so that people may know where to find the tax rolls and to instruct them on how to use them. The appropriate language from other statutes is included in this one to standardize the language.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 691.

"SUMMARY—Makes various changes relating to tenants of property. (BDR 10-912)"

"AN ACT relating to property; limiting the amount of fees a landlord may charge for a late or partial rent payment; revising provisions governing unlawful detainer; extending the period for complying with a notice to quit by certain tenants in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a tenant is obligated to pay periodic rent to a landlord in exchange for use of the premises. A landlord must include, as part of the

rental agreement, a provision which sets forth the charges, if any, which may be required for late or partial payment of rent. (NRS 118A.200)

This bill limits the amount of the late fee that may be charged by a landlord for late or partial payment of rent. Section 1 of this bill provides: (1) for monthly or longer periodic terms, the late fee may not exceed 3 percent of the periodic payment for payments made 3 to 6 days late, and may not exceed an additional 4 percent of the periodic payment if payment is made 7 days or more late; (2) for certain weekly periodic terms, the late fee may not exceed 7 percent of the weekly payment for payments made late; and (3) that a late fee imposed by a landlord may only be imposed once for a late payment.

~~[Existing law specifies when a tenant of real property or a mobile home is guilty of unlawful detainer, including when the tenant: (1) fails to pay his rent; (2) fails to comply with a written notice directing him to either pay the rent or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. (NRS 40.2512) Section 2 of this bill extends the 5-day period to 7 days if the premises are used as a residence.]~~

A tenant of real property is ~~[also]~~ guilty of unlawful detainer under existing law if he: (1) fails to perform certain conditions of the lease; (2) fails to comply with a written notice directing him to perform the conditions or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. The tenant or subtenant may save the lease from forfeiture, however, by performing the conditions within 3 days after the notice is served. (NRS 40.2516) Section 3 of this bill extends from 5 to 7 days the period during which a tenant or subtenant of premises that are used as a residence may remain on the property before being guilty of unlawful detainer. Section 3 also extends the period by which such a tenant or subtenant must perform the conditions to save the lease from forfeiture from 3 to 5 days.

Existing law provides that, under certain circumstances, a landlord may obtain an order from the court directing the sheriff to remove a tenant who has failed to pay rent within 24 hours after receiving the order. (NRS 40.253) Section 4 of this bill extends that period if the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less so that the sheriff may not remove the tenant sooner than 2 days after the sheriff receives the order.

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

Section 1. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall not require, as part of a rental agreement, the tenant to pay a late fee for late or partial payment of rent in excess of the provisions of this section.

2. If the tenancy is from month to month and rent is due in monthly installments or if the tenancy is for a period greater than month to month as established by the rental agreement and the rent is:

(a) At least 3 days overdue but less than 7 days overdue, a landlord may charge a late fee not to exceed 3 percent of the periodic rent.

(b) Seven days or more overdue, a landlord may charge a late fee in addition to the late fee described in paragraph (a) not to exceed 4 percent of the periodic rent.

3. If the tenancy is from week to week and the rent is overdue, a landlord may charge a late fee not to exceed 7 percent of the weekly rent. As used in this subsection, "tenancy" does not include occupancy of any transient lodging for less than 30 consecutive calendar days.

4. If the rent is subsidized by the United States Department of Housing and Urban Development, the United States Department of Agriculture, a state agency, a public housing authority or a local government, any late fee charged by a landlord must be calculated in accordance with the provisions of this section on the tenant's share of the rent and the rent subsidy must not be included in the calculation.

5. If a late fee is imposed under this section, a landlord may only impose the late fee once for each late or partial payment.

6. Any provision of a rental agreement prohibited by this section is void as contrary to public policy and the tenant may recover any actual damages incurred through the inclusion of the prohibited provision.

Sec. 2. ~~[NRS 40.2512 is hereby amended to read as follows:~~

~~40.2512 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing, requiring in the alternative the payment of the rent or the surrender of the detained premises, remains uncomplied with for a period of 5 days, or in the case of [a mobile home lot, 10] *premises used as a residence, 7* days after service thereof. The notice may be served at any time after the rent becomes due.]~~ *(Deleted by amendment.)*

Sec. 3. NRS 40.2516 is hereby amended to read as follows:

40.2516 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property or mobile home is held, other than those mentioned in NRS 40.250 to 40.252, inclusive, and NRS 40.254, and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the property, served upon him, and, if there is a subtenant in actual occupation of the premises, also upon the subtenant, remains uncomplied with for 5 days *or, when the premises are used as a residence, for 7 days* after the service thereof. Within 3 days after the service, *or within 5 days after the service when the premises are used as a residence,* the tenant, or any subtenant in

actual occupation of the premises, or any mortgagee of the term, or other person, interested in its continuance, may perform the condition or covenant and thereby save the lease from forfeiture; but if the covenants and conditions of the lease, violated by the lessee, cannot afterwards be performed, then no notice need be given.

Sec. 4. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. ~~[The]~~ *If the tenant is in possession of commercial premises, the* court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. *If the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less, the court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant not sooner than 2 days after receipt of the order.* The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon

the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that ~~[there]~~ *:*

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. ~~[If the court determines that there]~~

(b) There is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief ~~[,]~~ and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

➥ The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460, and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 5. The provisions of section 1 of this act apply only to a rental agreement entered into *or renewed* on or after ~~[July 1, 2009.]~~ *January 1, 2010, and to a rental agreement which is modified on or after January 1, 2010, to revise the terms of the agreement concerning late fees.*

Sec. 6. This act becomes effective on ~~[July 1, 2009.]~~ *January 1, 2010.*

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

This amendment does three things. It deletes section 2 of the bill concerning unlawful detainer, which would have extended from five to seven days the time in which a residential tenant may remain on the property after he is served notice requiring payment of rent or surrender of the premises. It provides that the limits on the late fee imposed by the landlord in section 1 of the bill applies only to rental or renewed agreements in effect on January 1, 2010, and to modified rental agreements after January 1, 2010. It changes the effective date to January 1, 2010.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 327.

Bill read second time and ordered to third reading.

Assembly Bill No. 329.

Bill read second time and ordered to third reading.

Assembly Bill No. 333.

Bill read second time.

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

Amendment No. 665.

"SUMMARY—Revises certain provisions relating to motor vehicles. (BDR 58-835)"

"AN ACT relating to motor vehicles; revising certain provisions relating to the towing of vehicles; authorizing an electronic notification to the Department of Motor Vehicles of the transfer of ownership of a motor vehicle; authorizing the Department to provide certain information about the transfer of ownership of a motor vehicle to tow car operators and other interested parties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires the Nevada Transportation Authority to reduce any charge for preparing or satisfying a lien which is filed by the operator of a tow car if the Authority determines that all or part of the charge is attributable to the operator's failure to prepare or satisfy the lien in a timely manner. (NRS 706.4468)

Existing law presumes that an abandoned motor vehicle was abandoned by its registered owner. The registered owner is thus responsible for the costs of removing and disposing of the vehicle. Existing law also provides for the rebuttal of this presumption. (NRS 487.220) Section 2 of this bill provides a similar presumption, and opportunity for rebuttal, for the registered owner of a vehicle that is towed at the request of the owner of real property from which the vehicle is towed. (NRS 706.4477)

Existing law provides that if an operator of a tow car tows a motor vehicle at the request of someone other than the owner, the operator is required to notify the owner of certain information within a particular period of time. (NRS 706.4479) Section 3 of this bill ~~[: (1) requires such information to be provided earlier than the existing law; and (2)]~~ adds to the list of the information that must be provided notice to the registered and legal owner of the vehicle as to the actions the owner may take to reduce his liability for any potentially applicable assessments, fees, penalties or other charges, and as to the opportunity to rebut presumptions about the ownership of a vehicle.

Section 4 of this bill authorizes a person who transfers ownership of a motor vehicle to notify the Department of Motor Vehicles of the transfer electronically. Section 4 also authorizes the Department to provide information regarding vehicle ownership transfers to tow car operators and other interested parties. (NRS 482.400)

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

Section 1. NRS 706.4468 is hereby amended to read as follows:

706.4468 1. Each operator of a tow car shall file its charges for preparing or satisfying a lien to which the operator is entitled against a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle. The Authority ~~[may]~~ *:*

(a) May investigate any charge filed pursuant to this subsection and revise the charge as necessary to ensure that the charge is reasonable.

(b) Shall reduce any charge filed pursuant to this subsection if the Authority determines that the charge is unreasonable because the charge is attributable, in whole or in part, to failure on the part of the operator of the tow car to prepare or satisfy his lien in a timely manner.

2. An operator of a tow car may not impose a charge or any part of a charge filed pursuant to subsection 1 unless the operator:

(a) Has initiated the procedure by which a person may satisfy a lien; and

(b) Stores the vehicle for at least 96 hours.

3. If an operator of a tow car stores a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle for at least 96 hours but not more than 336 hours, the operator may charge an amount not to exceed 50 percent of the charge approved by the Authority pursuant to subsection 1 for preparing or satisfying a lien.

4. If an operator of a tow car stores a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle for more than 336 hours, the operator may charge an amount not to exceed 50 percent of the charge approved by the Authority pursuant to subsection 1 for preparing or satisfying a lien in addition to the amount charged pursuant to subsection 3.

Sec. 2. NRS 706.4477 is hereby amended to read as follows:

706.4477 *1.* If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer:

~~[1.]~~ *(a)* The person requesting the towing must be the owner of the real property from which the vehicle is towed or his authorized agent and must sign a specific request for the towing. For the purposes of this section, the operator is not an authorized agent of the owner of the real property.

~~[2.]~~ *(b)* The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

~~[3.]~~ *(c)* Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

~~[4.]~~ *(d)* The operator may be directed to terminate the towing by a law enforcement officer.

2. The registered owner of a motor vehicle towed pursuant to the provisions of subsection 1:

(a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and

(b) Is responsible for the cost of removal and storage of the motor vehicle.

3. The registered owner may rebut the presumption in subsection 2 by showing that:

(a) He transferred his interest in the motor vehicle:

(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or

(2) As indicated by a bill of sale for the vehicle that is signed by the registered owner; or

(b) The vehicle is stolen, if he submits evidence that, before the discovery of the vehicle, he filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.

Sec. 3. NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the operator shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than 21 ~~*[14]*~~ days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than 15 ~~*[7 business]*~~ days after placing any other vehicle in storage:

(1) Of the location where the motor vehicle is being stored;

(2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;

(3) Of the charge for towing and storage; ~~[and]~~

(4) Of the date and time the vehicle was placed in storage ~~[.]~~ *;*

(5) Of the actions that the registered and legal owner of the vehicle may take to recover his vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges; and

(6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

(b) If the identity of the registered and legal owner is not known or readily available, make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this State or any other state within:

(1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(2) Fifteen days after placing any other motor vehicle in storage.

➥ The operator shall attempt to notify the owner of the vehicle by certified mail as soon as possible, but in no case later than 15 days after identification of the owner is obtained for any motor vehicle.

2. If an operator includes in his tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,

➥ unless the operator complies with the requirements set forth in subsection 1.

Sec. 4. NRS 482.400 is hereby amended to read as follows:

482.400 1. Except as otherwise provided in this subsection and subsections ~~[2, 5 and 6,]~~ *3, 6 and 7,* and NRS 482.247, upon a transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the provisions of this chapter, the person or persons whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of title issued for the vehicle, together with the residence address of the transferee, in the appropriate spaces provided upon the reverse side of the certificate. The Department may, by regulation, prescribe alternative methods by which a signature may be affixed upon a manufacturer's certificate of origin or a manufacturer's statement of origin issued for a vehicle. The alternative methods must ensure the authenticity of the signatures.

2. *Within 5 days after the transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the*

provisions of this chapter, the person or person whose title or interest is to be transferred may submit electronically to the Department a notice of the transfer. The Department may provide, by request and at the discretion of the Department, information submitted to the Department pursuant to this section to a tow car operator or other interested party. The Department shall adopt regulations establishing:

(a) Procedures for electronic submissions pursuant to this section; and

(b) Standards for determining who may receive information from the Department pursuant to this section.

3. The Department shall provide a form for use by a dealer for the transfer of ownership of a vehicle. The form must be produced in a manner which ensures that the form may not be easily counterfeited. Upon the attachment of the form to a certificate of title issued for a vehicle, the form becomes a part of that certificate of title. The Department may charge a fee not to exceed the cost to provide the form.

~~[3.]~~ *4.* Except as otherwise provided in subsections ~~[4, 5 and 6,]~~ *5, 6 and 7,* the transferee shall immediately apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

~~[4.]~~ *5.* If the transferee is a dealer who intends to resell the vehicle, he is not required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is resold, the purchaser shall apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

~~[5.]~~ *6.* If the transferee consigns the vehicle to a wholesale vehicle auctioneer:

(a) The transferee shall, within 30 days after that consignment, provide the wholesale vehicle auctioneer with the certificate of title for the vehicle, executed as required by subsection 1, and any other documents necessary to obtain another certificate of title for the vehicle.

(b) The wholesale vehicle auctioneer shall be deemed a transferee of the vehicle for the purposes of subsection ~~[4.]~~ *5.* The wholesale vehicle auctioneer is not required to comply with subsection 1 if he:

(1) Does not take an ownership interest in the vehicle;

(2) Auctions the vehicle to a vehicle dealer or automobile wrecker who is licensed as such in this or any other state; and

(3) Stamps his name, his identification number as a vehicle dealer and the date of the auction on the certificate of title and the bill of sale and any other documents of transfer for the vehicle.

~~[6.]~~ *7.* A charitable organization which intends to sell a vehicle which has been donated to the organization must deliver immediately to the Department or its agent the certificate of registration and the license plate or plates for the vehicle, if the license plate or plates have not been removed from the vehicle. The charitable organization must not be required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is sold by the charitable organization, the

purchaser shall apply for registration as provided in NRS 482.215 and pay the governmental services taxes due.

~~[7.]~~ *8.* As used in this section, "wholesale vehicle auctioneer" means a dealer who:

(a) Is engaged in the business of auctioning consigned motor vehicles to vehicle dealers or automobile wreckers, or both, who are licensed as such in this or any other state; and

(b) Does not in the ordinary course of his business buy, sell or own the vehicles he auctions.

Sec. 5. 1. This section and sections 1, 2 and 3 of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on October 1, 2010.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. Amendment No. 665 changes the time frames in section 3 back to what they are in the existing statute, namely, 21 days and 15 days, respectively, instead of 14 days and 7 business days.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 335.

Bill read second time and ordered to third reading.

Assembly Bill No. 348.

Bill read second time.

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

Amendment No. 627.

"SUMMARY—Requires public schools to post a notice of certain information concerning educational programs and services available within the *public schools and the* school district. (BDR 34-621)"

"AN ACT relating to education; requiring each public school to post a notice of information concerning certain courses, services and programs available to pupils enrolled in the *public school and the* school district; requiring that the notice be made available to the parents and legal guardians of those pupils; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the board of trustees of each school district to prepare a notice of information identifying all the advanced placement courses, honors courses, international baccalaureate courses, special education services, *gifted and talented programs,* charter school programs and any other educational programs available to pupils enrolled in the school district, including where those courses, services and programs are offered. Each public school within the school district is required to post a notice in a conspicuous place at the school indicating the *availability of courses,*

services and programs in the public school and indicating the availability and location of a complete list of the courses, services and programs identified by the school district and make ~~[that notice]~~ *such notices* available to the parents and legal guardians of pupils enrolled in the school.

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall prepare a written notice which identifies all the advanced placement courses, honors courses, international baccalaureate courses, special education services , gifted and talented programs and any other educational programs available to pupils enrolled in the school district , including, without limitation, to the extent information is available, programs offered by charter schools within the school district, which will assist in the advancement of the education of those pupils. The notice must:

(a) Specify where those courses, services and programs are available within the school district;

(b) Identify the grade level of pupils for which those courses, services and programs are available; and

(c) Be posted on the Internet website maintained by the school district.

2. Each public school shall:

(a) Prepare a written notice which identifies the courses, services and programs identified pursuant to subsection 1 that are available at that public school;

(b) Post in one or more conspicuous places at the school a notice indicating the availability and location of a complete list of the courses, services and programs :

(1) Available within the school district, as identified pursuant to subsection 1; and

(2) Available at that public school, as identified pursuant to paragraph (a); and

~~[(b)]~~ (c) Ensure that the ~~[notice]~~ notices prepared pursuant to ~~[subsection 1 is]~~ this section are made available to the parents and legal guardians of pupils enrolled in the school ~~[at]~~ :

(1) At the beginning of each school year or upon a pupil's enrollment in public school, as applicable ~~[.]~~ , including, without limitation, at meetings of parent organizations at the school and by distribution with other information that is sent home with pupils.

(2) At parent-teacher conferences.

3. The notices prepared pursuant to subsection 1 and paragraph (a) of subsection 2 must be made available in such languages as the board of trustees of the school district deems necessary.

Sec. 2. This act becomes effective on July 1, 2009.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Thank you, Mr. President. This amendment requires each public school to identify certain programs available at the school. It adds gifted and talented programs to the list of programs to be identified by the school district. It adds distribution of the notices via parent/teacher conferences, meetings of parent organizations at the school and pupils. And, it requires the notices to be made available in such languages as determined by the Board of Trustees of the school district.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 369.

Bill read second time and ordered to third reading.

Assembly Bill No. 380.

Bill read second time and ordered to third reading.

Assembly Bill No. 393.

Bill read second time and ordered to third reading.

Assembly Bill No. 403.

Bill read second time and ordered to third reading.

Assembly Bill No. 416.

Bill read second time and ordered to third reading.

Assembly Bill No. 471.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 728.

"SUMMARY—Revises provisions relating to the sale of real property. (BDR 3-1138)"

"AN ACT relating to real property; providing that a deficiency in payment on a mortgage, deed of trust or other encumbrance may be cured under certain circumstances before foreclosure; providing that a court shall not award a deficiency judgment on the foreclosure of a mortgage or a deed of trust under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides a right to cure a deficiency in payment on a mortgage or other encumbrance before a judicial foreclosure sale at any time not later than 5 days before the date of sale.

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. (NRS 40.455) Section 2 of this bill provides that *if the*

judgment creditor or the beneficiary of the deed of trust is a financial institution, a court may not award a deficiency judgment to ~~[a]~~ *the* judgment creditor or ~~[a]~~ *the* beneficiary of ~~[a]~~ *the* deed of trust if: (1) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (2) the debtor or grantor used the loan to purchase the property; (3) the debtor or grantor occupied the property continuously after obtaining the loan; and (4) the debtor or grantor did not refinance the loan.

Section 3 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill.

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

Section 1. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. *At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.*

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

~~[4.]~~ *5.* As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 2. NRS 40.455 is hereby amended to read as follows:

40.455 1. ~~[Upon]~~ *Except as otherwise provided in subsection 3, upon* application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the

proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. ~~[The]~~ If the judgment creditor or the beneficiary of the deed of trust is a financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as his principal residence after securing the mortgage or deed of trust; and

(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.

4. As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.

Sec. 3. The amendatory provisions of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after October 1, 2009.

Senator Care moved the adoption of the amendment.

Senator Woodhouse disclosed that she is a member of a credit union and serves on its board of directors.

Senator Schneider disclosed that he is a member of a credit union and serves on its board of directors.

Senator Copening disclosed that she is also a member of a credit union.

Remarks by Senator Care.

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

Thank you, Mr. President. The amendment clarifies application of the bill to the judgment creditor or beneficiary of a financial institution as defined in statute.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 473.

Bill read second time and ordered to third reading.

Assembly Bill No. 474.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 726.

"SUMMARY—Revises parole eligibility for certain offenders. (BDR 16-1127)"

"AN ACT relating to parole; requiring mandatory ~~[release on]~~ parole for certain prisoners who were under the age of 16 years when the offense was committed and who meet certain requirements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the mandatory release on parole of certain prisoners 12 months before the expiration of their maximum term if they have not previously been released on parole and are not otherwise ineligible for parole. (NRS 213.1215) This bill requires mandatory parole of prisoners who were sentenced to life imprisonment with the possibility of parole and who were less than 16 years of age at the time of the offense if they have: (1) served the minimum term of their sentence; (2) completed a program of general education or an industrial or vocational training program; (3) not been identified by the Department of Corrections as a member of a group posing a security threat; and (4) not committed a major violation of the regulations of the Department of Corrections and not been housed in disciplinary segregation within the immediately preceding 24 months.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in ~~[subsections 3, 4 and 5]~~ *this section* and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must , if the prisoner still has a consecutive sentence to be served, be granted parole from his current term of imprisonment to his subsequent term of imprisonment or must, if the prisoner does not still have a consecutive sentence to be served, be released on parole , if:

(a) The prisoner has served the minimum term of imprisonment imposed by the court;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

3. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

~~[2.]~~ *4.* Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

~~[3.]~~ *5.* If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 ~~[,]~~ *or 2* that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1 ~~[,]~~ *or 2.* If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1 ~~[,]~~ *or 2,* the Board shall provide to the prisoner a written statement of its reasons for denying parole.

~~[4.]~~ *6.* If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

~~[5.]~~ *7.* If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~[6.]~~ *8.* For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care and Carlton.

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

SENATOR CARE:

Thank you, Mr. President. The amendment clarifies how the bill applies to prisoners with and without consecutive sentences. If a prisoner who meets the criteria in the bill is serving consecutive sentences, he must be paroled from his current sentence to his subsequent term of imprisonment. If he is not serving consecutive sentences, he must be released on parole.

SENATOR CARLTON:

Thank you, Mr. President. In trying to understand this, these are consecutive sentences which could be three 20-year sentences adding up to 60 years. Someone could be eligible for parole on their first sentence, bypass that one and go to the second sentence. If they completed their second sentence, and come up for a parole hearing, they could be granted parole because of enough time had been done so that they would not have to do the third sentence?

SENATOR CARE:

Thank you, Mr. President. We are only talking about criminal defendants who are under the age of 16 at the time they committed the offense. The committee was probably prepared to adopt the bill the way it came over but an issue was raised by a committee member about what if there are consecutive sentences, no one talked about a third or fourth. If someone under the age of 16 has satisfied the conditions that are enumerated on page 2 of the bill and there are consecutive sentences, then, you begin serving the second sentence. I suppose if you have met the second sentence conditions you would still have to go on to the third sentence, although there was never any discussion contemplating a third consecutive sentence, but fundamentally, you have it correct.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 496.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 695.

"SUMMARY—Revises provisions governing judicial discipline. (BDR 1-1110)"

"AN ACT relating to the Commission on Judicial Discipline; revising the statute of limitations for filing certain complaints with the Commission; revising provisions concerning the grounds upon which the Commission may discipline a judge; authorizing the Commission to impose additional forms of discipline upon a judge who is the subject of a complaint; revising certain provisions concerning the confidentiality of the proceedings of the Commission; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law defines certain terms used in certain provisions of chapter 1 of NRS which relate to the Commission on Judicial Discipline. (NRS 1.425 1.429) Sections 1.5-9, 16 and 17 of this bill revise certain definitions and define additional terms that are used in those provisions.

Section 13 of this bill requires the Commission to prepare annual and biennial reports concerning, among other things, the *period for* disposition of ~~[cases]~~ *complaints* filed with the Commission.

Sections 21, 22, 26 and 27 of this bill authorize the Commission to dismiss a complaint with a letter of caution under certain circumstances. (NRS 1.4655, 1.4657, 1.4667, 1.467)

Section 21 of this bill provides, with exceptions, a 3-year statute of limitations for filing a complaint with the Commission concerning alleged misconduct or incapacity of a judge. Section 21 also requires the Commission, within 18 months after the receipt of such a complaint, to either resolve the complaint or authorize the filing of a formal statement of charges relating to the complaint. (NRS 1.4655) Section 27 of this bill requires a judge to file an answer to a formal statement of charges against the judge with the Commission within 20 days after the judge is served with the formal statement of charges. (NRS 1.467) Section 28 of this bill generally requires a hearing on a formal statement of charges to be held. Further, section 28

requires, if practicable, the hearing to be held not later than 60 days after a judge files the answer with the Commission. (NRS 1.4673) Section 28 also requires the Commission to prepare findings of fact and conclusions of law setting forth the decision of the Commission within 60 days after the conclusion of the hearing on the formal statement of charges. (NRS 1.4673)

Section 29 of this bill requires the Commission to give a judge 7 days' notice and an opportunity to respond and to hold a public hearing before the Commission suspends the judge from office. (NRS 1.4675)

Section 30 of this bill adds public admonishment and public reprimand to the existing forms of discipline the Commission is authorized to use for a judge who is the subject of a complaint. (NRS 1.4677) Section 32 of this bill authorizes a person who files a complaint against a judge with the Commission, the judge who is the subject of the complaint or a witness to disclose information concerning the complaint and any investigation or proceedings concerning the complaint. Section 32 also authorizes the Commission to issue an explanatory statement, under certain circumstances, concerning a complaint filed with the Commission under certain circumstances in which the complaint is made public. (NRS 1.4683)

Section 33 of this bill revises provisions governing the documents and exhibits concerning a complaint which must be made accessible to the public.

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

Section 1. Chapter 1 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 14, inclusive, of this act.

Sec. 1.5. *"Admonish" means to issue a written expression of disapproval of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653. The expression of disapproval may include a warning to the judge to avoid similar conduct in the future.*

Sec. 2. *"Censure" means to issue a formal, written condemnation of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653 that do not require the removal or barring of the judge from office because there are substantial mitigating factors.*

Sec. 3. *"Complaint" means information in any form and from any source that alleges or implies judicial misconduct or incapacity.*

Sec. 4. *"Formal statement of charges" means a document setting forth the specific acts of judicial misconduct or incapacity, including any amendment thereto.*

Sec. 5. *"Letter of caution" means a private, written communication to a judge to:*

1. Remind the judge of ethical responsibilities;

2. Warn the judge to avoid similar conduct in the future; or

3. Disapprove of conduct that may create the appearance of impropriety.

Sec. 6. *"Removal" means a decision issued by the Commission to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.*

Sec. 6.5. *"Remove" means to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.*

Sec. 7. *"Reprimand" means a severe, written reproof for one or more violations of the Nevada Code of Judicial Conduct by a judge as described in NRS 1.4677.*

Sec. 8. *"Special counsel" means the attorney designated by the Commission to:*

1. Present evidence at a hearing to suspend a judge held pursuant to NRS 1.4675;

2. File and prosecute a formal statement of charges; and

3. Perform other tasks, as directed by the Commission, pursuant to a designation authorized by NRS 1.4663.

Sec. 9. *"Suspend" means a decision issued by the Commission to require a judge to temporarily leave his office for conduct described in NRS 1.4675.*

Sec. 10. *1. Proceedings before the Commission are civil matters designed to preserve an independent and honorable judiciary.*

2. Except as otherwise provided in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act or in the procedural rules adopted by the Commission, after a formal statement of charges has been filed, the Nevada Rules of Civil Procedure apply.

Sec. 11. *1. Each appointing authority shall appoint for each position for which the authority makes an appointment to the Commission an alternate member. The Governor shall not appoint more than two alternate members of the same political party. An alternate member must not be a member of the Commission on Judicial Selection.*

2. An alternate member shall serve:

(a) When the appointed member is disqualified or unable to serve; or

(b) When a vacancy exists.

Sec. 12. *The Commission shall adopt rules providing for the disposition of a complaint or formal statement of charges at any stage in a disciplinary proceeding, pursuant to:*

1. The consent of the judge who is the subject of the complaint; and

2. An agreement between the judge and the Commission.

Sec. 13. *1. On or before September 30 of each year, the Commission shall prepare an annual report summarizing the activities of the Commission during the preceding fiscal year. The annual report must include, without limitation, statistical information concerning the period for disposition of complaints and the length of time that proceedings have been pending before the Commission, and a statement of the budget and expenses of the Commission. The annual report must be made available to the public.*

2. On or before September 30 of each odd-numbered year, the Commission shall prepare a biennial report summarizing the activities of the

Commission during the preceding 2 fiscal years. The biennial report must include, without limitation, statistical information concerning the period for disposition of complaints and the length of time that proceedings have been pending before the Commission, and a statement of the budget and expenses of the Commission. The Commission shall file a copy of the biennial report with the Governor, the Majority Leader of the Senate, the Speaker of the Assembly, the Chief Justice of the Supreme Court of Nevada, the Chairman of the Senate Standing Committee on Judiciary, the Chairman of the Assembly Standing Committee on Judiciary and the State Bar of Nevada. The biennial report must be made available to the public.

3. The information included in the annual and biennial reports prepared pursuant to this section must comply with any ~~[applicable]~~ and all confidentiality requirements ~~[.]~~ of applicable law and the rules of the Commission adopted pursuant to NRS 1.4695.

Sec. 14. *1. The Commission may extend the limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act for good cause shown.*

2. The limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act must be computed in the same manner as in the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure and must not include:

(a) Periods of delay at the request of or attributable to a judge other than the judge who is the subject of a complaint;

(b) Short periods of delay that are the result of the period between scheduled meetings of the Commission;

(c) Periods in which the judge who is the subject of a complaint and the Executive Director of the Commission or special counsel are negotiating an agreement; or

(d) Periods when the Commission is holding a complaint in abeyance pending the disposition of a court case relating to the complaint.

3. The Commission shall not dismiss a complaint or a formal statement of charges for failure to comply with the limitations of time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act unless the Commission determines such a delay is unreasonable and the rights of the judge to a fair hearing have been violated. The fact that an investigation has been conducted more than 24 months after the date the complaint was filed with the Commission is prima facie evidence of an unreasonable delay, which may be rebutted.

Sec. 15. NRS 1.425 is hereby amended to read as follows:

1.425 As used in NRS 1.425 to 1.4695, inclusive, *and sections 1.5 to 14, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 1.426 ~~[to 1.429, inclusive,]~~ *, 1.427 and 1.428, and sections 1.5 to 9, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 1.427 is hereby amended to read as follows:

1.427 "Incapacitated" means unable to perform the duties of ~~[his]~~ office because of advanced age or mental or physical disability.

Sec. 17. NRS 1.428 is hereby amended to read as follows:

1.428 "Judge" means:

1. *A justice of the Supreme Court;*

2. A judge of the district court;

~~[2.]~~ *3.* A judge of the municipal court;

~~[3.]~~ *4.* A justice of the peace; and

~~[4.]~~ *5.* Any other officer of the Judicial Branch of this State, whether or not he is an attorney, who presides over judicial proceedings, including, but not limited to, a magistrate, court commissioner, special master or referee.

Sec. 18. NRS 1.440 is hereby amended to read as follows:

1.440 1. The Commission has exclusive jurisdiction over the *public* censure, removal, involuntary retirement and other discipline of judges which is coextensive with its jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under the same rules.

2. The Supreme Court shall appoint two justices of the peace or two municipal judges to sit on the Commission for formal, public proceedings against a justice of the peace or a municipal judge, respectively. Justices of the peace and municipal judges so appointed must be designated by an order of the Supreme Court to sit for such proceedings in place of and to serve for the same terms as the regular members of the Commission appointed by the Supreme Court.

Sec. 19. NRS 1.465 is hereby amended to read as follows:

1.465 1. The following persons are absolutely immune from suit for all conduct at any time in the course of their official duties:

(a) Any member who serves on the Commission;

(b) Any person employed by the Commission;

(c) Any independent contractor of the Commission; and

(d) Any person who performs services pursuant to NRS 1.450 or 1.460 for the Commission.

2. ~~[The]~~ *Except as otherwise provided in NRS 1.4683, the* following persons are absolutely immune from suit unless convicted of committing perjury before the Commission pursuant to NRS 199.120 to 199.200, inclusive:

(a) A person who files a complaint with the Commission pursuant to NRS 1.4655; ~~[and]~~

(b) A person who gives testimony at a ~~[public]~~ hearing held by the Commission pursuant to NRS ~~[1.467.]~~ *1.4673 or 1.4675; and*

(c) A person who gives a statement to an investigator of the Commission during an authorized investigation.

Sec. 20. NRS 1.4653 is hereby amended to read as follows:

1.4653 1. The Commission may remove ~~[,]~~ *a judge, publicly* censure *a judge* or impose other forms of discipline on a ~~[justice or]~~ judge if the Commission determines that the ~~[justice or]~~ judge:

(a) Has committed willful misconduct;

(b) Has willfully or persistently failed to perform the duties of his office; or

(c) Is habitually intemperate.

2. The Commission may *publicly* censure *a judge* or impose other forms of discipline on a ~~[justice or]~~ judge if the Commission determines that the ~~[justice or]~~ judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate.

3. The Commission may retire a ~~[justice or]~~ judge if the Commission determines that:

(a) The advanced age of the ~~[justice or]~~ judge interferes with the proper performance of his judicial duties; or

(b) The ~~[justice or]~~ judge suffers from a mental or physical disability that prevents the proper performance of his judicial duties and is likely to be permanent in nature.

4. As used in this section:

(a) "Habitual intemperance" means the chronic, excessive use of alcohol or another substance that affects mental processes, awareness or judgment.

(b) "Willful misconduct" includes:

(1) Conviction of ~~[a felony or of a misdemeanor]~~ *any crime* involving moral turpitude;

(2) A knowing or deliberate violation of one or more of the provisions of the Nevada Code of Judicial Conduct; *and*

(3) A knowing or deliberate act or omission in the performance of judicial or administrative duties that:

(I) Involves fraud or bad faith or amounts to a public offense; and

(II) Tends to corrupt or impair the administration of justice in a judicial proceeding . ~~[; and~~

~~(4) Knowingly or deliberately swearing falsely in testimony before the Commission or in documents submitted under oath to the Commission.]~~

➥ *The term does not include claims of error or abuse of discretion in findings of fact, legal decisions or procedural rulings unless supported by evidence of abuse of authority, a disregard for fundamental rights, an intentional disregard of the law, a pattern of legal error or an action taken for a purpose other than the faithful discharge of judicial duty.*

Sec. 21. NRS 1.4655 is hereby amended to read as follows:

1.4655 1. The Commission may begin an inquiry regarding the alleged misconduct or incapacity of a ~~[justice or]~~ judge upon the receipt of ~~[:~~

~~(a) A written, sworn complaint from any person which alleges that the justice or judge has committed misconduct or is incapacitated; or~~

~~(b) Information from any source and in any format, from which the Commission may reasonably infer that the justice or judge may have committed misconduct or be incapacitated.~~

~~2. For the purposes of further inquiry and action by the Commission, information described in paragraph (b) of subsection 1 shall be deemed to be a complaint upon motion of the Commission.]~~ *a complaint.*

2. The Commission shall not consider complaints arising from acts or omissions that occurred more than 3 years before the date of the complaint or more than 1 year after the complainant knew or in the exercise of reasonable diligence should have known of the conduct, whichever is earlier, except that:

(a) Where there is a continuing course of conduct, the conduct will be deemed to have been committed at the termination of the course of conduct;

(b) Where there is a pattern of recurring judicial misconduct and at least one act occurs within the 3-year or 1-year period, as applicable, the Commission may consider all prior acts or omissions related to that pattern; and

(c) Any period in which the judge has concealed or conspired to conceal evidence of misconduct is not included in the computation of the time limit for the filing of a complaint pursuant to this section.

3. Within 18 months after the receipt of a complaint pursuant to this section, the Commission shall:

(a) Dismiss the complaint with or without a letter of caution;

(b) Attempt to resolve the complaint informally as required pursuant to NRS 1.4665;

(c) Enter into a deferred discipline agreement pursuant to NRS 1.468;

(d) With the consent of the judge, impose discipline on the judge pursuant to an agreement between the judge and the Commission; or

(e) Authorize the filing of a formal statement of the charges based on a finding that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action.

Sec. 22. NRS 1.4657 is hereby amended to read as follows:

1.4657 1. The Commission shall, in accordance with its procedural rules, examine each complaint that it receives ~~[pursuant to NRS 1.4655]~~ to determine whether the complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653.]~~ *alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated.*

2. If the Commission determines that a complaint does not contain such allegations, the Commission shall dismiss the complaint ~~[.]~~ *with or without a letter of caution. A letter of caution is not a form of discipline. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the letter of caution is not relevant to the misconduct alleged in the subsequent complaint.*

3. If the Commission determines that a complaint does contain such allegations, the Commission shall authorize further investigation . ~~[to be conducted in accordance with NRS 1.4663.]~~

Sec. 23. NRS 1.466 is hereby amended to read as follows:

1.466 1. During any stage of a disciplinary proceeding, including, but not limited to, an investigation ~~[to determine probable cause]~~ *pursuant to NRS 1.4663* and a formal hearing, the Commission may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, but not limited to, books, papers, documents, records, photographs, recordings, reports and tangible objects.

2. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Commission may, in accordance with its procedural rules, hold the witness in contempt and impose a reasonable penalty to enforce the subpoena.

3. If a witness continues to refuse to attend, testify or produce materials as required by the subpoena, the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials as required by the subpoena before the Commission, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend, testify or produce materials before the Commission.

4. Upon receipt of such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended, testified or produced materials before the Commission. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 24. NRS 1.4663 is hereby amended to read as follows:

1.4663 1. If the Commission determines pursuant to NRS 1.4657 that a complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653,]~~ *alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated,* the Commission shall assign or appoint an investigator to conduct an investigation to determine whether the allegations

have merit. *The Commission may designate special counsel at any time after a complaint is filed with the Commission pursuant to NRS 1.4655.*

2. Such an investigation must be conducted in accordance with procedural rules adopted by the Commission and may extend to any matter that is, in the determination of the Commission, reasonably related to an allegation of misconduct or incapacity contained in the complaint.

3. An investigator assigned or appointed by the Commission to conduct an investigation pursuant to this section may, for the purpose of investigation, compel by subpoena on behalf of the Commission the attendance of witnesses and the production of necessary materials as set forth in NRS 1.466.

4. At the conclusion of the investigation, the investigator shall prepare a written report of the investigation for review by the Commission.

Sec. 25. NRS 1.4665 is hereby amended to read as follows:

1.4665 1. ~~[If a]~~ *Except as otherwise provided in this section or in the procedural rules adopted by the Commission, the Commission shall use the same procedures with respect to allegations of incapacity as it uses with respect to allegations of misconduct.*

2. The Commission shall attempt to resolve the following matters informally:

(a) A complaint received by the Commission *which* alleges that a ~~[justice or]~~ judge is incapacitated ~~[, the Commission shall, after examining the complaint and conducting an investigation pursuant to NRS 1.4657 and 1.4663, attempt to resolve the matter informally.]~~ *;*

(b) A matter in which the preliminary investigation reveals that a judge may have a physical or mental disability; and

(c) A matter in which the judge raises a mental or physical disability as an issue before the filing of the formal statement of charges.

3. An informal resolution by the Commission pursuant to subsection 2 includes, without limitation:

(a) Voluntary retirement by the judge; and

(b) If the disability can be adequately addressed through treatment, a deferred discipline agreement pursuant to NRS 1.468.

4. In attempting to resolve ~~[the]~~ *a* matter informally, the Commission may request that the ~~[justice or]~~ judge named in the complaint submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.

~~[2.]~~ *5.* If the Commission is unable to resolve the matter informally pursuant to subsection ~~[1,]~~ *2,* the Commission shall:

(a) Proceed as set forth in NRS 1.4667, 1.467 and 1.4673. ~~[If the matter proceeds to the point at which the prosecuting attorney files a statement of formal charges pursuant to NRS 1.467 and the justice or judge named in the complaint denies all or part of those charges, the Commission shall deem such a denial to be consent on the part of the justice or judge to submit to~~

~~medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.]~~

(b) Unless the ~~[justice or]~~ judge has retained counsel at his own expense, appoint an attorney to represent the ~~[justice or]~~ judge at public expense.

6. If a judge raises a mental or physical disability as an affirmative defense or in mitigation, the judge shall be deemed to have consented to medical, psychiatric or psychological testing and to have waived the psychologist-patient privilege, doctor-patient privilege, marriage and family therapist-client privilege and social worker-client privilege set forth in chapter 49 of NRS, as applicable. The Commission shall require the judge to produce his relevant medical records and to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the judge. If the judge refuses to produce medical records or submit to an examination, the Commission shall preclude the judge from presenting the medical records or evidence of the results of medical examinations conducted on behalf of the judge and may consider the refusal as evidence that the judge has an incapacity that seriously interferes with the performance of judicial duties of the judge and is likely to become permanent, or as evidence contradicting the claim of a disability by the judge as an affirmative defense or mitigating factor.

7. If a judge raises a mental illness or other disability as a defense or mitigating factor in a proceeding alleging misconduct, the judge has the burden of proving by a preponderance of the evidence that:

(a) He has a serious mental illness or other disability;

(b) The mental illness or other disability caused the misconduct;

(c) He has undergone or is undergoing treatment for the mental illness or other disability;

(d) The treatment has abated the cause of the misconduct; and

(e) The misconduct is not likely to recur.

~~[3.]~~ *8.* The findings of a physician ~~[appointed]~~ *selected* by the Commission pursuant to this section are not privileged communications.

~~[4.]~~ *9.* The provisions of this section do not prohibit a ~~[justice or]~~ judge from having legal counsel and a physician of his choice present at a medical, psychiatric or psychological examination conducted pursuant to this section.

~~[5.]~~ *10.* The Commission shall adopt procedural rules to carry out the provisions of this section.

Sec. 26. NRS 1.4667 is hereby amended to read as follows:

1.4667 *1.* The Commission shall review the report ~~[of an investigation conducted]~~ *prepared* pursuant to NRS 1.4663 to determine whether there is ~~[sufficient reason to proceed.]~~ *a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against a judge.*

2. If the Commission determines that ~~[there is not sufficient reason to proceed,]~~ *such a reasonable probability does not exist,* the Commission shall dismiss the complaint ~~[.]~~ *with or without a letter of caution. The Commission*

may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.

3. If the Commission determines that ~~[it could, in all likelihood, make a determination in the affirmative pursuant to NRS 1.467,]~~ *such a reasonable probability exists,* the Commission shall require the ~~[justice or]~~ judge ~~[named in the complaint]~~ to respond to the complaint in accordance with procedural rules adopted by the Commission. ~~[If the justice or judge fails to respond to the complaint, the Commission shall deem such failure to be an admission that the facts alleged in the complaint:~~

~~1. Are true; and~~

~~2. Establish grounds for discipline pursuant to NRS 1.4653.]~~

Sec. 27. NRS 1.467 is hereby amended to read as follows:

1.467 1. After ~~[the justice or]~~ *a* judge ~~[named in the complaint]~~ responds to the complaint *as required* pursuant to NRS 1.4667 , ~~[and after considering that response and other relevant information,]~~ the Commission shall make a finding of whether there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~[justice or]~~ judge . ~~[named in the complaint pursuant to NRS 1.4653.]~~

2. If the Commission ~~[makes a finding]~~ *finds* that such a reasonable probability does not exist, the Commission shall dismiss the complaint ~~[.]~~ *with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.*

3. If the Commission ~~[makes a finding]~~ *finds* that such a reasonable probability ~~[does exist,]~~ *exists, but reasonably believes that the misconduct would be addressed more appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into a deferred discipline agreement with the judge for a definite period as described in NRS 1.468.*

4. The Commission shall not dismiss a complaint with a letter of caution or enter into a deferred discipline agreement with a judge if:

(a) The misconduct of the judge involves the misappropriation of money, dishonesty, deceit, fraud, misrepresentation or a crime that adversely reflects on the honesty, trustworthiness or fitness of the judge;

(b) The misconduct of the judge resulted or will likely result in substantial prejudice to a litigant or other person;

(c) The misconduct of the judge is part of a pattern of similar misconduct; or

(d) The misconduct of the judge is of the same nature as misconduct for which the judge has been publicly disciplined or which was the subject of a deferred discipline agreement entered into by the judge within the immediately preceding 5 years.

5. If the Commission finds that such a reasonable probability exists and that formal proceedings are warranted, the Commission shall, in accordance with its procedural rules ~~[~~:

~~(a) Designate a prosecuting attorney, who must]~~ *, designate special counsel to* sign under oath *and file with the Commission* a formal statement of charges against the ~~[justice or judge and file the statement with the Commission;~~

~~(b) Require that the justice or judge submit to the Commission an answer to the formal statement of charges; and~~

~~(c) Hold a formal, public hearing on the merits of the charges.~~

~~4.]~~ *judge.*

6. Within 20 days after service of the formal statement of charges, the judge shall file an answer with the Commission under oath. If the ~~[justice or]~~ judge fails to answer the formal statement of charges ~~[pursuant to subsection 3,]~~ *within that period,* the Commission shall deem such failure to be an admission that the charges set forth in the formal statement:

(a) Are true; and

(b) Establish grounds for discipline pursuant to NRS 1.4653.

7. The Commission shall adopt rules regarding disclosure and discovery after the filing of a formal statement of charges.

8. By leave of the Commission, a statement of formal charges may be amended at any time, before the close of the hearing, to allege additional matters discovered in a subsequent investigation or to conform to proof presented at the hearing if the judge has adequate time, as determined by the Commission, to prepare a defense.

Sec. 28. NRS 1.4673 is hereby amended to read as follows:

1.4673 ~~[After holding a formal hearing on the merits of the charges filed pursuant to NRS 1.467, the Commission shall, in accordance with its procedural rules, dismiss the charges or discipline the justice or judge]~~

1. Unless a deferred discipline agreement has been entered into with the judge pursuant to NRS 1.468, a hearing on a formal statement of charges must be held. If practicable, the hearing must be held not later than 60 days after:

(a) The judge files an answer; or

(b) The date on which the time period for filing an answer expires if the judge has not filed an answer and has not filed with the Commission a request for an extension of time before the expiration of the period for filing the answer.

2. If formal charges are filed against a judge:

(a) The standard of proof in any proceedings following the formal statement of charges is clear and convincing evidence.

(b) The burden of proof rests on the special counsel except where otherwise provided by specific statute.

(c) The rules of evidence applicable to civil proceedings apply at a hearing held pursuant to subsection 1.

3. Within 60 days after the conclusion of a hearing on a formal statement of charges, the Commission shall prepare and adopt written findings of fact and conclusions of law that:

(a) Dismiss all or part of the charges, if the Commission determines that the grounds for discipline have not been proven by clear and convincing evidence; or

(b) Impose such disciplinary actions on the judge as deemed appropriate by the Commission ~~[.]~~, *if the Commission determines that the grounds for discipline have been proven by clear and convincing evidence.*

Sec. 29. NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a ~~[justice or]~~ judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the ~~[justice or]~~ judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the ~~[justice or]~~ judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a ~~[justice or]~~ judge from the exercise of office without salary if the ~~[justice or]~~ judge:

(a) Pleads guilty, guilty but mentally ill or no contest to a charge of; or

(b) Is found guilty or guilty but mentally ill of,

➥ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the ~~[justice or]~~ judge must be paid his salary for the period of suspension.

3. *In addition to the grounds set forth in subsection 2, the Commission may suspend a judge from the exercise of office without salary if the Commission determines that the judge:*

(a) Has committed serious and repeated willful misconduct;

(b) Has willfully or persistently failed to perform the duties of his office; or

(c) Is habitually intemperate,

➥ *and the Commission determines that the circumstances surrounding such conduct, including, without limitation, any mitigating factors, merit disciplinary action more severe than censure but less severe than removal.*

4. ~~[The]~~ *During any stage of a disciplinary proceeding, the* Commission may suspend ~~[a justice or]~~ *the* judge from the exercise of office with salary *pending a final disposition of the complaint* if the Commission determines, ~~[pending a final determination in a judicial disciplinary proceeding,]~~ *by a preponderance of the evidence,* that the ~~[justice or]~~ judge poses a substantial threat of serious harm to the public or to the administration of justice.

~~[4.]~~ *5. The Commission shall give the judge 7 days' notice of its intention to suspend the judge pursuant to this section and shall give the judge an opportunity to respond. The Commission shall hold a public hearing before ordering such a suspension, unless the judge waives his right to the hearing. The decision of the Commission must be made public.*

6. A ~~[justice or]~~ judge suspended pursuant to this section may appeal the suspension to the Supreme Court . ~~[for reconsideration of the order.~~

~~5.]~~ *If a judge appeals such a suspension:*

(a) The standard of review for such an appeal is an abuse of discretion standard; and

(b) The proceedings held at the Supreme Court concerning the suspension must be open to the public.

7. Within 60 days after a decision by the Commission to suspend a judge pursuant to this section, the Commission shall:

(a) Have a formal statement of charges filed against the judge;

(b) Rescind the suspension; or

(c) Enter into a deferred discipline agreement with the judge pursuant to NRS 1.468.

8. The Commission may suspend a ~~[justice or]~~ judge pursuant to this section only in accordance with its procedural rules.

Sec. 30. NRS 1.4677 is hereby amended to read as follows:

1.4677 ~~[In addition to or in lieu of removal or censure, the Commission may impose other forms of discipline on a justice or judge whom the Commission determines to have committed an act or engaged in a behavior in violation of subsection 1 or 2 of NRS 1.4653, including, but not limited to, requiring the justice or judge to:]~~

1. *Pursuant to a deferred discipline agreement with the judge entered into pursuant to NRS 1.468 or based on a finding of misconduct following a hearing on a formal statement of charges, the Commission may take one or more of the following actions:*

(a) Publicly admonish, publicly reprimand or publicly censure a judge.

(b) ~~[Pay]~~ *Impose* a fine ~~[.~~

~~2. Serve a term of suspension]~~ *upon the judge.*

(c) Suspend the judge from office ~~[.~~

~~3.]~~ *without pay.*

(d) Require the judge to:

(1) Complete a probationary period pursuant to conditions deemed appropriate by the Commission.

~~[4.]~~ *(2)* Attend training or educational courses.

~~[5.]~~ *(3)* Follow a remedial course of action.

~~[6.]~~ *(4)* Issue a public apology.

~~[7.]~~ *(5)* Comply with conditions or limitations on his future conduct.

~~[8.]~~ *(6)* Seek medical, psychiatric or psychological care or counseling and direct the provider of health care or counselor to report to the Commission regarding the condition or progress of the ~~[justice or]~~ judge.

~~[9. Agree not to seek]~~

(e) Bar the judge from serving in a judicial office in the future.

~~[10. Perform any combination of the actions set forth in this section.]~~

(f) Impose any other reasonable disciplinary action or combination of disciplinary actions that the Commission determines will curtail or remedy the misconduct of the judge.

2. The Commission may publicly admonish a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate and for which there are no aggravating factors.

3. The Commission may publicly reprimand a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is:

(a) Not knowing or deliberate but for which there are aggravating factors; or

(b) Knowing or deliberate but for which there are mitigating factors.

Sec. 31. NRS 1.468 is hereby amended to read as follows:

1.468 1. Except as otherwise provided in subsections 2 and 3, if the Commission reasonably believes that a ~~[justice or]~~ judge has committed an act or engaged in a behavior that would be addressed most appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into an agreement with the ~~[justice or]~~ judge to defer formal disciplinary proceedings and require the ~~[justice or]~~ judge to undergo the rehabilitation, treatment, education or minor corrective action.

2. The Commission may not enter into an agreement with a ~~[justice or]~~ judge to defer formal disciplinary proceedings if the Commission has determined, pursuant to NRS 1.467, that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~[justice or]~~ judge pursuant to NRS 1.4653.

3. The Commission may enter into an agreement with a ~~[justice or]~~ judge to defer formal disciplinary proceedings only in response to misconduct that is minor in nature.

4. A deferred discipline agreement entered into pursuant to this section must be in writing and must specify the conduct that resulted in the agreement. A judge who enters into such an agreement must agree:

(a) To the specified rehabilitation, treatment, education or minor corrective action;

(b) To waive his right to a hearing before the Commission; and

(c) That the agreement will not be protected by confidentiality for the purpose of any subsequent disciplinary proceedings against the judge,

➥ and the agreement must indicate that the judge agreed to the terms set forth in paragraphs (a), (b) and (c). Such an agreement must expressly authorize the Commission to revoke the agreement and proceed with any other disposition of the complaint or formal statement of charges authorized

by NRS 1.467 if the Commission finds that the judge has failed to comply with a condition of the agreement.

5. The Executive Director of the Commission shall monitor the compliance of the judge with the agreement. The Commission may require the judge to document his compliance with the agreement. The Commission shall give the judge written notice of any alleged failure to comply with any condition of the agreement and shall allow the judge not less than 15 days to respond.

6. If the judge complies in a satisfactory manner with the conditions imposed in the agreement, the Commission may dismiss the complaint or take any other appropriate action.

Sec. 32. NRS 1.4683 is hereby amended to read as follows:

1.4683 1. Except as otherwise provided in this section and NRS ~~[1.4693]~~ *1.4675* and 239.0115, all proceedings of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the ~~[prosecuting attorney]~~ *special counsel* files a formal statement of charges.

2. *Except as otherwise provided in this section, before the filing of a formal statement of charges, a present or former member of the Commission, a present or former member of the staff of the Commission or a present or former independent contractor retained by the Commission shall not disclose information contained in a complaint or any other information relating to the allegations of misconduct or incapacity. Such persons:*

(a) May disclose such information to persons directly involved in the matter to the extent necessary for a proper investigation and disposition of the complaint; and

(b) Shall conduct themselves in a manner that maintains the confidentiality of the disciplinary proceeding.

3. Nothing in this section prohibits a person who files a complaint with the Commission pursuant to NRS 1.4655, a judge against whom such a complaint is made or a witness from disclosing at any time the existence or substance of a complaint, investigation or proceeding. The immunity provided by NRS 1.465 does not apply to such a disclosure.

4. The confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission , ~~[or]~~ its staff *or any independent contractors retained by the Commission* in the course of its work and relating to the alleged misconduct or incapacity of a judge.

~~[3.]~~ *5.* The Commission shall disclose:

(a) The report of a proceeding before the Commission; and

(b) All testimony given and all materials filed in connection with such a proceeding,

➥ if a witness is prosecuted for perjury committed during the course of that proceeding.

~~[4. If the Commission determines at any stage in a disciplinary proceeding that there is an insufficient factual or legal basis to proceed, the Commission shall dismiss the complaint and may, at the request of the justice or judge named in the complaint, publicly issue an explanatory statement.~~

~~5. The Commission may issue press releases and other public statements to:~~

~~(a) Explain the nature of its jurisdiction;~~

~~(b) Explain the procedure for filing a complaint;~~

~~(c) Explain limitations upon its powers and authority; and~~

~~(d) Report on the conduct of its affairs.~~

~~➥ Such releases and statements must not, without the consent of the justice or judge concerned, disclose by name, position, address or other information the identity of a justice or judge or other person involved in a proceeding then pending before the Commission or that has been resolved without an order of censure, removal or retirement, unless formal charges have been filed after a determination pursuant to NRS 1.467.]~~

6. *Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if the judge, a third person or the person who filed a complaint with the Commission pursuant to NRS 1.4655 has made the name of the judge against whom such a complaint is made public, the Commission may, at the request of the judge or on its own accord, issue an explanatory statement to maintain confidence in the judicial system and the Commission. In such a statement, the Commission may:*

(a) Confirm or deny that a complaint has been filed;

(b) Confirm or deny that the Commission is conducting an investigation;

(c) Confirm that the Commission has dismissed a complaint with or without a letter of caution; and

(d) Confirm that the Commission has entered into a deferred discipline agreement with the judge.

7. In addition to the information authorized pursuant to subsection 6, a statement issued by the Commission pursuant to subsection 6 may correct any public misinformation concerning the disciplinary proceeding, clarify the procedures of the Commission relating to the disciplinary proceeding and explain that the judge has a right to a fair investigation and, if applicable, a fair hearing without prejudgment. The Commission shall submit such a statement to the judge concerned for comments before the Commission releases the statement. The Commission is not required to incorporate any comments made by the judge in the statement and may release the statement as originally drafted.

8. The Commission may, without disclosing the name of or any details that may identify the ~~[justice or]~~ judge involved, disclose the existence of a proceeding before it to the State Board of Examiners and the Interim Finance Committee to obtain additional money for its operation from the Contingency Fund established pursuant to NRS 353.266.

~~[7.]~~ *9.* No record of any medical examination, psychiatric evaluation or other comparable professional record made for use in an informal resolution pursuant to subsection ~~[1]~~ *4* of NRS 1.4665 may be made public at any time without the consent of the ~~[justice or]~~ judge concerned.

10. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, the Commission may release confidential information:

(a) To the appropriate law enforcement or prosecuting authorities if the Commission determines that it has reliable information which reveals possible criminal conduct by a judge, former judge or any other person;

(b) Upon request to the Board of Governors of the State Bar of Nevada or other appropriate disciplinary authorities of the State Bar of Nevada if the Commission determines that it has reliable information that reveals a possible violation of the Rules of Professional Conduct by a judge, former judge or any other attorney; or

(c) Pursuant to an order issued by a court of record of competent jurisdiction in this State or a federal court of record of competent jurisdiction.

11. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if a judge or former judge signs a waiver, the Commission may release confidential information concerning any complaints filed with the Commission pursuant to NRS 1.4655 that are pending or are closed and did not result in a dismissal to:

(a) An agency authorized to investigate the qualifications of persons for admission to practice law;

(b) An appointing or nominating authority or a state or federal agency lawfully conducting investigations relating to the selection or appointment of judges; or

(c) An agency conducting investigations relating to employment with a governmental agency or other employment.

12. If the Commission discloses information concerning a pending complaint to an agency or authority pursuant to subsection 11, the Commission shall subsequently disclose the disposition of the complaint to the agency or authority. The Commission shall send a copy of all information disclosed pursuant to subsection 11 to the judge concerned at the same time the Commission sends the information to the agency or authority.

Sec. 33. NRS 1.4687 is hereby amended to read as follows:

1.4687 ~~[Upon]~~

1. Except as otherwise provided in subsection 2:

(a) Upon the filing of a formal statement of charges with the Commission by the ~~[prosecuting attorney,]~~ *special counsel,* the statement and other documents later formally filed with the Commission must be made accessible to the public, and hearings must be open.

(b) If a formal statement of charges has not been filed with the Commission and the Commission holds a hearing to suspend a judge

pursuant to NRS 1.4675, any transcript of the hearing and any documents offered as evidence at the hearing must be made accessible to the public.

2. Regardless of whether any formal statement of charges has been filed with the Commission, medical records and any other documents or exhibits offered as evidence which are privileged pursuant to chapter 49 of NRS must not be made accessible to the public.

3. The Commission's deliberative sessions must remain private.

4. The filing of ~~[the]~~ *a* formal statement of charges does not justify the Commission, its counsel *,* ~~[or]~~ staff *or independent contractors retained by the Commission* in making public any correspondence, notes, work papers, interview reports or other evidentiary matter, except at the formal hearing or with explicit consent of the ~~[justice or]~~ judge named in the complaint.

Sec. 34. NRS 1.429, 1.4685 and 1.4693 are hereby repealed.

Sec. 35. 1. The amendatory provisions of this act apply only to:

(a) A complaint filed with the Commission on Judicial Discipline on or after January 1, 2010; and

(b) Any formal statement of charges filed with the Commission on or after January 1, 2010, as a result of a complaint described in paragraph (a).

2. As used in this section:

(a) "Complaint" has the meaning ascribed to it in section 3 of this act.

(b) "Formal statement of charges" has the meaning ascribed to it in section 4 of this act.

Sec. 36. This act becomes effective on January 1, 2010.

TEXT OF REPEALED SECTIONS

1.429 "Justice" defined. "Justice" means a justice of the Supreme Court of the State of Nevada.

1.4685 Breach of confidentiality punishable as contempt. Except as otherwise provided in NRS 1.4693, any person who breaches the confidentiality of disciplinary proceedings of the Commission is punishable for contempt.

1.4693 Authorized disclosures by person who files complaint and person who gives testimony. Notwithstanding the provisions of NRS 1.4683 to 1.469, inclusive:

1. A person who files a complaint with the Commission may:

(a) At any time, reveal to a third party the alleged conduct of a justice or judge underlying the complaint that he filed with the Commission or the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal charges, reveal to a third party the fact that he filed a complaint with the Commission.

2. A person who gives testimony before the Commission may:

(a) At any time, reveal to a third party the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal charges, reveal to a third party the fact that he gave testimony before the Commission.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Thank you, Mr. President. The amendment clarifies that certain reports prepared by the Commission on Judicial Discipline must include statistical information on the period for disposition of complaints and the length of time that proceedings have been pending before the Commission. Additionally, these reports must comply with all confidentiality requirements in applicable law and Commission rules.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 508.

Bill read second time and ordered to third reading.

Assembly Bill No. 528.

Bill read second time and ordered to third reading.

Assembly Bill No. 538.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 146.

Bill read third time.

Roll call on Senate Bill No. 146:

YEAS—19.

NAYS—None.

EXCUSED—Nolan, Townsend—2.

Senate Bill No. 146 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 294.

Bill read third time.

Roll call on Senate Bill No. 294:

YEAS—18.

NAYS—Cegavske.

EXCUSED—Nolan, Townsend—2.

Senate Bill No. 294 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 409.

Bill read third time.

Roll call on Senate Bill No. 409:
YEAS—19.
NAYS—None.
EXCUSED—Nolan, Townsend—2.

Senate Bill No. 409 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 16.
Bill read third time.
Roll call on Assembly Bill No. 16:
YEAS—19.
NAYS—None.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 16 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 52.
Bill read third time.
Roll call on Assembly Bill No. 52:
YEAS—19.
NAYS—None.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 52 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 76.
Bill read third time.
Roll call on Assembly Bill No. 76:
YEAS—19.
NAYS—None.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 76 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 79.
Bill read third time.
Remarks by Senators Carlton and Woodhouse.
Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CARLTON:
As I read this, I would like to be certain that this does not change any election dates. This just changes the process of the election.

SENATOR WOODHOUSE:
Yes. That is true. There are no change of dates in this bill.

Roll call on Assembly Bill No. 79:
YEAS—18.
NAYS—Cegavske.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 79 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 109.
Bill read third time.
Roll call on Assembly Bill No. 109:
YEAS—18.
NAYS—Care.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 109 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 121.
Bill read third time.
Roll call on Assembly Bill No. 121:
YEAS—14.
NAYS—Cegavske, Hardy, McGinness, Raggio, Washington—5.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 121 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 139.
Bill read third time.
Roll call on Assembly Bill No. 139:
YEAS—18.
NAYS—Cegavske.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 139 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 191.
Bill read third time.
Roll call on Assembly Bill No. 191:
YEAS—14.
NAYS—Cegavske, Hardy, McGinness, Rhoads, Washington—5.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 191 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 192.

Bill read third time.

Roll call on Assembly Bill No. 192:

YEAS—19.

NAYS—None.

EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 192 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 236.

Bill read third time.

Roll call on Assembly Bill No. 236:

YEAS—19.

NAYS—None.

EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 236 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 243.

Remarks by Senators Lee and Wiener.

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

SENATOR LEE:

Could we have an explanation of this bill?

SENATOR WIENER:

This measure would allow parents up to four hours a year to attend activities at their children's school. A negotiated contract is not a part of this measure. It would not be a compensated time, but it would allow them to attend functions and to participate as parents so that parental involvement may be maximized.

SENATOR LEE:

Section 5.2, where it says, "any person who violates provisions of this subsection is guilty of a misdemeanor, "that seems to be wide open, and who would cite this person? How would it go through the judicial system? This is onerous and could be a "he said/she said" situation.

SENATOR WIENER:

Some of your questions were not addressed that specifically in committee. We did address the section containing the Labor Commission hearings and are proposing to change this to commission investigations.

Senator Wiener moved that Assembly Bill No. 243 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 274.
Bill read third time.
Roll call on Assembly Bill No. 274:
YEAS—19.
NAYS—None.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 274 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 486.
Bill read third time.
Roll call on Assembly Bill No. 486:
YEAS—19.
NAYS—None.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 486 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 510.
Bill read third time.
Roll call on Assembly Bill No. 510:
YEAS—19.
NAYS—None.
EXCUSED—Nolan, Townsend—2.

Assembly Bill No. 510 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senator Horsford moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 12:17 p.m.

SENATE IN SESSION

At 12:22 p.m.
President Krolicki presiding.
Quorum present.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 256.
The following Assembly amendment was read:
Amendment No. 608.
"SUMMARY—Designates an area on the grounds of Northern Nevada Adult Mental Health Services as a historic cemetery. (BDR S-922)"

"AN ACT relating to the grounds of Northern Nevada Adult Mental Health Services; designating an area on the grounds of Northern Nevada Adult Mental Health Services as a historic cemetery and providing the boundaries of the cemetery; requiring the reinterment of certain human remains found outside the boundaries of the cemetery; requiring the Office of Historic Preservation of the Department of Cultural Affairs to oversee the maintenance and improvement of the cemetery ~~[.]~~ *by Northern Nevada Adult Mental Health Services;* requiring the State of Nevada to terminate a lease of a portion of the cemetery to the City of Sparks; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The grounds of Northern Nevada Adult Mental Health Services include a cemetery that was formerly a part of the Nevada Hospital for Mental Diseases. In 1949, the Legislature required the board of commissioners of the hospital to abolish the use of the cemetery. (Chapter 184, Statutes of Nevada 1949, p. 408) This bill designates the area of the former cemetery as a historic cemetery. This bill also requires the reinterment of human remains from gravesites found in a certain area outside the designated boundaries of the cemetery to the area inside the historic cemetery. This bill also provides for the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs, in cooperation with persons with an interest in the matter, to oversee the maintenance and improvement of the cemetery ~~[.]~~ *by Northern Nevada Adult Mental Health Services of the Division of Mental Health and Developmental Services of the Department of Health and Human Services.*

In 1959, a portion of the former cemetery was leased to the City of Sparks. This bill directs the State of Nevada to terminate the lease. Upon termination of the lease, the area covered by the lease will become a part of the cemetery.

Section 2 of this bill repeals the statute that abolished the use of the cemetery.

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

Section 1. 1. The following area, used before 1949 as a cemetery for the former Nevada Hospital for Mental Diseases, is hereby established as a historic cemetery, except as otherwise provided in this section:

All that certain real property situate within a portion of the Northeast One-Quarter (NE 1/4) of Section Seven (7), Township Nineteen (19) North, Range Twenty (20) East, Mount Diablo Meridian, City of Sparks, State of Nevada and being portions of the State Department of Agriculture parcel and the Northern Nevada Adult Mental Health System parcel as shown on the Record of Survey for the Northern Nevada Adult Mental Health System, Map No. 4663, File No. 3330918, Official Records of Washoe County, being more particularly described as follows:

Area 1

BEGINNING at the Northeasterly corner of said State Department of Agriculture parcel, also being a point on the Westerly right-of-way line of 21st Street as shown on said Record of Survey Map;
THENCE along the Northerly line of said State Department of Agriculture parcel, North 81°36′00″ West, 119.01 feet;
THENCE along the Westerly line of the Pinion Park lease line as shown on said Record of Survey, South 16°46′00″ West, 33.50 feet;
THENCE continuing along said Westerly line, South 00°15′04″ West, 257.47 feet to the Southwesterly corner thereof;
THENCE North 88°28′00″ East, 125.05 feet;
THENCE North 0°45′00″East, 268.83 feet to the POINT OF BEGINNING;
Said area being 35,159 square feet, 0.807 acres, more or less.
Area 2
COMMENCING at the Northeasterly corner of said State Department of Agriculture parcel, also being a point on the Westerly right-of-way line of 21st Street as shown on said Record of Survey Map; THENCE South 0°45′00″ West, 268.83 feet to the POINT OF BEGINNING;
THENCE continuing along the Westerly right-of-way line of 21st Street South 0°45′00″ West, 361.77 feet;
THENCE South 89°05′10″ West, 114.54 feet;
THENCE North 00°54′50″ West, 360.26 feet;
THENCE North 88°28′00″ East, 125.05 feet to the POINT OF BEGINNING;
Said area being 43,234 square feet, 0.992 acres, more or less.

2. Except as otherwise provided in this section, the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services, in cooperation with the State Public Works Board, the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs and any other persons with an interest in the matter, shall disinter certain human remains found in gravesites on the grounds of Northern Nevada Adult Mental Health Services that are outside of the area described in subsection 1 and reinter the remains within the area described in subsection 1. The remains to be relocated consist of a row of approximately 30 graves in an area east of the Dini-Townsend Hospital and west of the State Department of Agriculture building on the grounds of Northern Nevada Adult Mental Health Services.

3. The Administrator of the Division of Mental Health and Developmental Services:

(a) Shall adopt regulations pursuant to NRS 451.069 to 451.330, inclusive, concerning the disinterment and removal of remains pursuant to subsection 2.

(b) Shall not reinter remains in the area described in subsection 1 as "area 1" until the leasehold interest of the City of Sparks is terminated pursuant to subsection 7.

(c) Shall, except as otherwise provided in subsection 6, comply with all federal and state laws concerning burial sites and disinterment and reinterment of human remains.

4. The cost of disinterment and reinterment of remains pursuant to this section must be paid to the extent of available money from Project No. 07-C20 of the State Public Works Board, as approved in paragraph (b) of subsection 3 of section 1 of chapter 347, Statutes of Nevada 2007, at page 1637. To the extent that money is available for this purpose, the State Public Works Board shall provide, in consultation with the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs and other persons with an interest in the matter, appropriate fencing and a memorial monument for the cemetery.

5. The Administrator of the Office of Historic Preservation of the Department of Cultural Affairs shall, in consultation with persons with an interest in the matter and to the extent of available money, oversee the maintenance and improvement of the historic cemetery established pursuant to this section ~~[.]~~ *by Northern Nevada Adult Mental Health Services of the Division of Mental Health and Developmental Services of the Department of Health and Human Services.*

6. The provisions of NRS 451.045 do not apply to the disinterment of remains required by subsection 2. The provisions of NRS 452.001 to 452.610, inclusive, do not apply to the historic cemetery established by this section.

7. The area designated in subsection 1 as "area 1" is the portion of the historic cemetery leased to the City of Sparks by a lease dated September 10, 1959, and is subject to that lease until it is terminated by the State of Nevada. The State of Nevada shall give an appropriate 180-day written notice of termination as provided in the lease and shall terminate the lease. Upon termination of the lease, that area becomes a part of the historic cemetery established by this section.

Sec. 2. Section 1 of chapter 184, Statutes of Nevada 1949, at page 408, is hereby repealed.

TEXT OF REPEALED SECTION

Section 1 of chapter 184, Statutes of Nevada 1949:

SECTION 1. Notwithstanding any other provision of law, it is hereby made the specific duty of the board of commissioners of the Nevada hospital for mental diseases to abolish the use of any cemeteries now located on the hospital grounds. It is further made the specific duty of said board to provide a decent burial for any inmate or patient who dies while such an inmate, at any cemetery without the hospital grounds, and in so doing, the said board of commissioners is authorized to enter into a contract with any person or persons, including governmental agencies or instrumentalities, as it deems proper, for such a decent burial, or it may provide for any sort of an arrangement under the operating head of the hospital. The cost of such burial, where there are known relatives, shall be borne by such relatives, and where there are no known relatives, the cost of such burial shall be a charge against the State of Nevada, but the cost

thereof shall not exceed the amount charged for the burial of indigents in the county in which the burial takes place. When any person who is an inmate of said hospital dies while such inmate, any known relatives or friends of such person shall be notified immediately of the fact of death, and in the event there is no known relative or friend of such inmate, notice shall be given by publication for one insertion in a newspaper to be chosen by said board of commissioners for such purpose. The board of commissioners is specifically charged with the duty of giving such notification and may delegate such duty to the superintendent.

Senator Mathews moved that the Senate concur in the Assembly amendment to Senate Bill No. 256.

Motion carried by a constitutional majority.

Bill ordered enrolled.

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

Senate in recess at 12:24 p.m.

SENATE IN SESSION

At 12:32 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was rereferred Senate Bill No. 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

BERNICE MATHEWS, *Cochair*

SECOND READING AND AMENDMENT

Senate Bill No. 382.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 581.

"SUMMARY—Revises provisions relating to disproportionate share payments to certain hospitals. (BDR 38-1105)"

"AN ACT relating to public welfare; revising provisions relating to the disproportionate share payments made to certain hospitals; ~~[establishing]~~ *requiring the Division of Health Care Financing and Policy of the Department of Health and Human Services to prescribe by regulation* provisions relating to audits of and ~~[prescribing]~~ other requirements for certain hospitals; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing federal law requires each state to adopt a state plan for Medicaid and requires that the plan include a description of the methodology used by

the state to identify certain hospitals which serve a disproportionate number of low-income patients and to pay those hospitals for their uncompensated costs associated with providing services to those patients. These hospitals are known as disproportionate share hospitals. (42 U.S.C. § 1396r-4) The Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services issued a final rule amending regulations which govern the disproportionate share hospitals, payments to those hospitals and audits of those hospitals. This rule became effective January 19, 2009. The State Plan for Medicaid for Nevada provides for payments to disproportionate share hospitals and requires the Division of Health Care Financing and Policy of the Department of Health and Human Services to calculate the uncompensated care percentage of each hospital for purposes of making those payments. (NRS 422.380-422.390) This bill amends existing laws relating to disproportionate share hospitals and payments to those hospitals to comply with the final rule adopted by the Centers for Medicare and Medicaid Services.

~~[Section 2 of this bill revises the information which must be considered by the Division of Health Care Financing and Policy of the Department of Health and Human Services to determine the disproportionate share payment authorized for each hospital. (NRS 422.3807)]~~ Section 3 of this bill eliminates the specific amount which must be paid to the Division by counties whose population is more than 100,000 to assist with disproportionate share payments *,* and *section 6 of this bill* requires the Division to ~~[enter into cooperative agreements with counties]~~ *prescribe by regulation the methodology that will be used* to determine the amount which a county must pay. (NRS 422.382 ~~[)]~~ *, 422.390)* Section 5 of this bill eliminates the specific amounts which must be paid to certain hospitals in this State and requires the State Plan for Medicaid and the Division to establish the methodologies for determining the disproportionate share payments which must be paid to hospitals, which must be in accordance with federal law and regulations. (NRS 422.387) Section 6 of this bill requires the Division to adopt regulations to carry out the provisions relating to audits, the recovery of overpayments of disproportionate share payments and the redistribution of the money recovered in accordance with federal law and federal regulations. (NRS 422.390)

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

Section 1. NRS 422.380 is hereby amended to read as follows:

422.380 As used in NRS 422.380 to 422.390, inclusive, unless the context otherwise requires:

1. "Disproportionate share payment" means a payment made pursuant to 42 U.S.C. § 1396r-4.

2. "Hospital" has the meaning ascribed to it in NRS 439B.110 and includes public and private hospitals.

~~[*3. "Medicaid inpatient utilization rate" has the meaning ascribed to it in 42 U.S.C. § 1396r-4(b)(2).*~~

~~*4.* "Public hospital" means:~~

~~(a) A hospital owned by a state or local government, including, without limitation, a hospital district; or~~

~~(b) A hospital that is supported in whole or in part by tax revenue, other than tax revenue received for medical care which is provided to Medicaid patients, indigent patients or other low-income patients.~~

~~*5. "Uncompensated care costs" means the total costs of a hospital incurred in providing care to uninsured patients, including, without limitation, patients covered by Medicaid less any payments received by the hospital for that care.]*~~

Sec. 2. ~~[~~NRS 422.3807 is hereby amended to read as follows:

~~422.3807 1. The Division shall determine for each hospital that is located in a county whose population is 100,000 or more the uncompensated care~~ [percentage] ~~*costs of the hospital, the Medicaid inpatient utilization rate* of the hospital *and the profit and loss margin of the hospital, as reported to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services,* for the preceding fiscal year.~~

~~2. Based on the determinations made pursuant to subsection 1, the Division shall determine for each county whose population is 100,000 or more the arithmetic mean of the percentages determined pursuant to subsection 1 of all hospitals in the county.~~

~~3. Each hospital shall provide to the Division any information requested by the Division that the Division determines is necessary to make a determination pursuant to this section.~~

~~4. The Division shall at least once each year prepare and submit a report concerning the determinations it makes pursuant to this section to:~~

~~(a) The Legislative Commission;~~

~~(b) The Interim Finance Committee; and~~

~~(c) The Legislative Committee on Health Care.~~

~~[5. As used in this section, "uncompensated care percentage" has the meaning ascribed to it in NRS 422.387.]]~~ *(Deleted by amendment.)*

Sec. 3. NRS 422.382 is hereby amended to read as follows:

422.382 1. ~~[In a county whose population is 100,000 or more within which:~~

~~(a) A public hospital is located, the state or local government or other entity responsible for the public hospital shall transfer an amount equal to:~~

~~(1) Seventy percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to NRS 422.387 for a fiscal year, less $1,050,000; or~~

~~(2) Sixty-eight and fifty-four one hundredths percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to NRS 422.387 for a fiscal year,~~

~~➥ whichever is less, to the Division.~~

~~(b) A private hospital which receives a disproportionate share payment pursuant to paragraph (c) of subsection 2 of NRS 422.387 is located, the county shall transfer 1.95 percent of the total amount of disproportionate share payments distributed to all hospitals pursuant to NRS 422.387 for a fiscal year, but not more than $1,500,000, to the Division.]~~ ~~*[The Department shall enter into cooperative agreements with counties in this State to ensure intergovernmental transfers of money to the Division for the purposes of carrying out the provisions of NRS 422.380 to 422.390, inclusive, in accordance with the State Plan for Medicaid.*~~

~~2. A county that transfers the amount required pursuant to]~~ ~~[paragraph (b) of]~~ ~~*[a cooperative agreement entered into pursuant to*~~ ~~subsection 1 to the Division is discharged of the duty and is released from liability for providing medical treatment for indigent inpatients who are treated in the hospital in the county that receives a payment pursuant to]~~ ~~[paragraph (c) of subsection 2 of]~~ ~~[NRS 422.387.~~

~~3.]~~ The money transferred to the Division *in accordance with the regulations adopted* pursuant to ~~[subsection 1]~~ *paragraph (a) of subsection 1 of NRS 422.390* must not come from any source of funding that could result in any reduction in revenue to the State pursuant to 42 U.S.C. § 1396b(w).

~~[4.]~~ *2.* Any money collected *in accordance with the regulations adopted* pursuant to ~~[subsection 1,]~~ *subsection 1 of NRS 422.390*, including any interest or penalties imposed for a delinquent payment, must be deposited in the State Treasury for credit to the Intergovernmental Transfer Account in the State General Fund to be administered by the Division.

~~[5.]~~ *3.* The interest and income earned on money in the Intergovernmental Transfer Account, after deducting any applicable charges, must be credited to the Account.

Sec. 4. NRS 422.385 is hereby amended to read as follows:

422.385 1. The ~~[allocations and]~~ *disproportionate share* payments ~~[required pursuant to]~~ ~~[subsections 1 to 5, inclusive, of]~~ ~~[NRS 422.387]~~ *made to hospitals* must be made, to the extent allowed by the State Plan for Medicaid, from the Medicaid Budget Account.

2. ~~[Except as otherwise provided in]~~ ~~[subsection 3 and]~~ ~~[subsection 6 of NRS 422.387, the]~~ *The* money in the Intergovernmental Transfer Account must be transferred from that Account to the Medicaid Budget Account to the extent that money is available from the Federal Government for proposed expenditures, including expenditures for administrative costs. If the amount in the Account exceeds the amount authorized for expenditure by the Division for the purposes ~~[specified in NRS 422.387,]~~ *of making disproportionate share payments*, the Division is authorized to expend the additional revenue in accordance with the provisions of the State Plan for Medicaid.

3. If enough money is available to support Medicaid and to make the *disproportionate share* payments , ~~[required by subsection 6 of~~

~~NRS 422.387,]~~ money in the Intergovernmental Transfer Account may be transferred:

(a) To an account established for the provision of health care services to uninsured children pursuant to a federal program in which at least 50 percent of the cost of such services is paid for by the Federal Government, including, without limitation, the Children's Health Insurance Program; or

(b) To carry out the provisions of NRS 439B.350 and 439B.360.

Sec. 5. NRS 422.387 is hereby amended to read as follows:

422.387 1. ~~[Before making the payments required or authorized by this section, the Division shall allocate money for the administrative costs necessary to carry out the provisions of NRS 422.380 to 422.390, inclusive. The amount allocated for administrative costs must not exceed the amount authorized for expenditure by the Legislature for this purpose in a fiscal year. The Interim Finance Committee may adjust the amount allowed for administrative costs.~~

~~2. The State Plan for Medicaid must provide for the payment of the maximum amount of disproportionate share payments allowable under federal law and regulations. The State Plan for Medicaid must provide that]~~ ~~[for:~~

~~(a) All public hospitals in counties whose population is 400,000 or more, the total annual disproportionate share payments are $66,650,000 plus 90 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year that exceeds $76,000,000;~~

~~(b) All private hospitals in counties whose population is 400,000 or more, the total annual disproportionate share payments are $1,200,000 plus 2.5 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year that exceeds $76,000,000;~~

~~(c) All private hospitals in counties whose population is 100,000 or more but less than 400,000, the total annual disproportionate share payments are $4,800,000 plus 2.5 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year that exceeds $76,000,000;~~

~~(d) All public hospitals in counties whose population is less than 100,000, the total annual disproportionate share payments are $900,000 plus 2.5 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year that exceeds $76,000,000; and~~

~~(e) All private hospitals in counties whose population is less than 100,000, the total annual disproportionate share payments are $2,450,000 plus 2.5 percent of the total amount of disproportionate share payments distributed by the State in that fiscal year that exceeds $76,000,000.]~~ ~~*[money available for the purposes of carrying out the provisions of NRS 422.380 to 422.390, inclusive, for each fiscal year is allocated among each hospital that is eligible for a disproportionate share payment based on the percentage of uncompensated care costs of each hospital as compared to other hospitals that are eligible for a disproportionate share payment. The State Plan for*~~

~~*Medicaid must provide the process for allocating money proportionately in accordance with the provisions of this subsection.*~~

~~3.~~] The State Plan for Medicaid must provide ~~[for a base payment in an amount determined pursuant to subsections 4 and 5. Any amount set forth in each paragraph of subsection 2 that remains after all base payments have been distributed must be distributed to the hospital within that paragraph with the highest uncompensated care percentage in an amount equal to either the amount remaining after all base payments have been distributed or the amount necessary to reduce the uncompensated care percentage of that hospital to the uncompensated care percentage of the hospital in that paragraph with the second highest uncompensated care percentage, whichever is less. Any amount set forth in subsection 2 that remains after the uncompensated care percentage of the hospital with the highest uncompensated care percentage in a paragraph has been reduced to equal the uncompensated care percentage of the hospital in that paragraph with the second highest uncompensated care percentage must be distributed equally to the two hospitals with the highest uncompensated care percentage in that paragraph until their uncompensated care percentages are equal to the uncompensated care percentage of the hospital with the third highest uncompensated care percentage in that paragraph. This process must be repeated until all available funds set forth in a paragraph of subsection 2 have been distributed.~~

~~4. Except as otherwise provided in subsection 5, the base payments for the purposes of subsection 3 are:~~

~~(a) For the University Medical Center of Southern Nevada, $66,531,729;~~

~~(b) For Washoe Medical Center, $4,800,000;~~

~~(c) For Carson-Tahoe Hospital, $1,000,000;~~

~~(d) For Northeastern Nevada Regional Hospital, $500,000;~~

~~(e) For Churchill Community Hospital, $500,000;~~

~~(f) For Humboldt General Hospital, $215,109;~~

~~(g) For William Bee Ririe Hospital, $204,001;~~

~~(h) For Mt. Grant General Hospital, $195,838;~~

~~(i) For South Lyon Medical Center, $174,417; and~~

~~(j) For Nye Regional Medical Center, $115,000,~~

~~➥ or the successors in interest to such hospitals.~~] *the methodology for:*

(a) Calculating the initial distribution of the disproportionate share payments *in accordance with the regulations adopted pursuant to* ~~*[this section;]*~~

NRS 422.390;

(b) Adjusting the disproportionate share payment to a hospital if the annual audit of the hospital demonstrates that the disproportionate share payment made to the hospital was greater than the amount of money which the hospital was eligible to receive; and

(c) Redistributing any amount of disproportionate share payments which are returned to the Division as a result of the adjustments made in accordance with paragraph (b).

~~*[4.]*~~ *2. The State Plan for Medicaid or, if the Division deems necessary, the Division may require a hospital to submit any documentation or other information to verify eligibility for a disproportionate share payment or compliance with the requirements of NRS 422.380 to 422.390, inclusive. A disproportionate share payment may not be calculated for or made to a hospital which fails to provide the Division with documentation or other information that is required by the State Plan for Medicaid or the Division.*

~~[5. The]~~

3. Except as otherwise provided in subsection 4, the State Plan *for Medicaid* must be consistent with the provisions of NRS 422.380 to 422.390, inclusive, *and the regulations adopted pursuant thereto,* and Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., and the regulations adopted pursuant to those provisions. ~~[If the total amount available to the State for making disproportionate share payments is less than $76,000,000, the Administrator:~~

~~(a) Shall adjust the amounts for each group of hospitals described in a paragraph of subsection 2 proportionally in accordance with the limits of federal law. If the amount available to hospitals in a group described in a paragraph of subsection 2 is less than the total amount of base payments specified in subsection 4, the Administrator shall reduce the base payments proportionally in accordance with the limits of federal law.~~

~~(b) Shall adopt a regulation specifying the amount of the reductions required by paragraph (a).]~~

~~[6. To the extent that money is available in the Intergovernmental Transfer Account, the Division shall distribute $50,000 from that Account each fiscal year to each public hospital which:~~

~~(a) Is located in a county that does not have any other hospitals; and~~

~~(b) Is not *otherwise* eligible for a payment pursuant to]~~ ~~[subsections 2, 3 and 4.~~

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

~~(a) "Total revenue" is the amount of revenue a hospital receives for patient care and other services, net of any contractual allowances or bad debts.~~

~~(b) "Uncompensated care costs" means the total costs of a hospital incurred in providing care to uninsured patients, including, without limitation, patients covered by Medicaid or another governmental program for indigent patients, less any payments received by the hospital for that care.~~

~~(c) "Uncompensated care percentage" means the uncompensated care costs of a hospital divided by the total revenue for the hospital.]~~ ~~*[this section.]*~~

4. If the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services denies an amendment to the State Plan for Medicaid, the Director may negotiate terms which are acceptable to

the Centers for Medicare and Medicaid Services which are inconsistent with the provisions of NRS 422.380 to 422.390, inclusive, and the regulations adopted pursuant thereto if:

(a) Negotiating such terms is necessary to ensure that the State Plan for Medicaid is consistent with the provisions of Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., and the regulations adopted pursuant to those provisions; and

(b) Before finalizing such an amendment to the State Plan for Medicaid, the Director obtains the approval of the Interim Finance Committee.

Sec. 6. NRS 422.390 is hereby amended to read as follows:

422.390 1. The Division shall adopt regulations concerning:

(a) Procedures for the ~~[transfer to the Division of the amount required pursuant to cooperative agreements entered into pursuant to~~ NRS 422.382.~~]~~ *intergovernmental transfers of money from the counties to the Division for the purposes of carrying out the provisions of NRS 422.380 to 422.390, inclusive, and the State Plan for Medicaid.*

(b) Provisions for the payment of a penalty and interest for a delinquent *intergovernmental* transfer.

(c) Provisions for the payment of interest by the Division for late reimbursements to hospitals or other providers of medical care.

(d) Provisions for the calculation of ~~[the uncompensated care]~~ ~~[percentage]~~ ~~*[costs and Medicaid inpatient utilization rate]*~~ *disproportionate share payments* for hospitals. ~~[, including, without limitation, the procedures and methodology required to be used in calculating the]~~ ~~[percentage, and any]~~ ~~*[costs and rate.]*~~

(e) Any required documentation of and reporting by a hospital relating to the calculation ~~[.]~~ *of the disproportionate share payment for the hospital and the verification of the disproportionate share payment that has been received by the hospital.*

(f) Procedures and requirements for conducting independent and certified audits of hospitals and the disproportionate share payments made to hospitals as required pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., and the regulations adopted pursuant to those provisions.

(g) Procedures for adjusting a disproportionate share payment in accordance with Title XIX of the Social Security Act, 42 U.S.C. §§ 1396, et seq., and the regulations adopted pursuant to those provisions, if the audit of a hospital demonstrates that a disproportionate share payment made to the hospital was greater than the amount of money the hospital was eligible to receive.

(h) Procedures for redistributing any disproportionate share payment returned to the Division by a hospital in accordance with Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., and the regulations adopted pursuant to those provisions.

2. The Division shall report to the Interim Finance Committee quarterly concerning the provisions of NRS 422.380 to 422.390, inclusive.

3. Notwithstanding the provisions of NRS 233B.039 to the contrary, the regulations adopted pursuant to this section must be adopted in accordance with the provisions of chapter 233B of NRS and must be codified in the Nevada Administrative Code.

Sec. 6.5. 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]~~ *Except as otherwise provided in NRS 422.390, 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, 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. 7. NRS 450.750 is hereby amended to read as follows:

450.750 For the purposes of NRS ~~[422.382,]~~ *422.380 to 422.390, inclusive,* if a hospital district created pursuant to NRS 450.550 to 450.750, inclusive, includes territory within more than one county, the board of county commissioners of the county in which the hospital is located shall be deemed to be the local government responsible ~~*[required to enter into an agreement with the Department of Health and Human Services]*~~ for transferring payments of money to the Department ~~[of Health and Human Services]~~ for treatment of ~~[medically indigent]~~ patients pursuant to the provisions of ~~[that section.]~~ *NRS 422.380 to 422.390, inclusive.*

Sec. 7.3. NRS 422.3807 is hereby repealed.

Sec. 7.5. 1. The Division of Health Care Financing and Policy of the Department of Health and Human Services shall consider the following in adopting the regulations required pursuant to NRS 422.390, as amended by section 6 of this act:

(a) The role of public hospitals in providing health care in this State;

(b) The role of rural hospitals in providing health care in this State;

(c) Providing resources to hospitals that have demonstrated a commitment to serving uninsured patients and patients who are on Medicaid;

(d) Providing transitional payments for hospitals which were receiving payments pursuant to the provisions of NRS 422.380 to 422.390, inclusive,

before July 1, 2010, that will no longer be eligible to receive a disproportionate share payment pursuant to the regulations;

(e) Ensuring that all money available for disproportionate share payments is expended; and

(f) Increasing state revenue available for disproportionate share payments to fill any loss in revenue from counties.

2. The Division of Health Care Financing and Policy shall quarterly report to the Legislative Committee on Health Care and the Interim Finance Committee concerning the status of the regulations required pursuant to NRS 422.390, as amended by section 6 of this act, and an update of the workshops and meetings relating to those regulations. The Division shall give a final report when the regulations are filed with the Secretary of State.

3. The Division of Health Care Financing and Policy shall adopt the regulations required pursuant to NRS 422.390, as amended by section 6 of this act, on or before June 30, 2010.

Sec. 8. The Department of Health and Human Services may conduct audits *in accordance with the regulations adopted* pursuant to NRS 422.390, as amended by section 6 of this act, for any previous fiscal year as required pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., and the regulations adopted pursuant to those provisions.

Sec. 9. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 10. This act becomes effective upon passage and approval for purposes of adopting regulations and amending the State Plan for Medicaid and on July 1, ~~[~~2009,~~]~~ *2010,* for all other purposes.

TEXT OF REPEALED SECTION

422.3807 Division to determine certain information concerning uncompensated care percentages of hospitals in larger counties; hospitals to provide information to Division; reports.

1. The Division shall determine for each hospital that is located in a county whose population is 100,000 or more the uncompensated care percentage of the hospital for the preceding fiscal year.

2. Based on the determinations made pursuant to subsection 1, the Division shall determine for each county whose population is 100,000 or more the arithmetic mean of the percentages determined pursuant to subsection 1 of all hospitals in the county.

3. Each hospital shall provide to the Division any information requested by the Division that the Division determines is necessary to make a determination pursuant to this section.

4. The Division shall at least once each year prepare and submit a report concerning the determinations it makes pursuant to this section to:

(a) The Legislative Commission;

(b) The Interim Finance Committee; and

(c) The Legislative Committee on Health Care.

5. As used in this section, "uncompensated care percentage" has the meaning ascribed to it in NRS 422.387.

Senator Mathews moved the adoption of the amendment.

Remarks by Senators Mathews, Carlton and Horsford.

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

SENATOR MATHEWS:

This bill is about revising provision relating to the Disproportionate Share Payments made to certain hospitals known as DSH.

SENATOR CARLTON:

On page 7, I would like an explanation of the new language that appears under subsection 4.

SENATOR HORSFORD:

There are new regulations that have been required by the federal government to be met beginning July 1, 2010. In order to accommodate the new formula for how the Disproportionate Share Payments are allocated among hospitals, this amendment will create an interim process and will keep the current methodology in place. It will direct the Director of the Department of Human Services to work on the development of a new methodology plan for implementation on July 1, 2010. We will not be in session at that time. Those recommendations with be brought to the Legislative Committee on Health Care and to the Interim Finance Committee for review.

SENATOR CARLTON:

If they are inconsistent with the regulations that are adopted, they can renegotiate the regulations to insure that the state plan is consistent with Title 19 of the Social Security Act.

Usually, when we do regulations, the regulations come through the Legislative Commission. We double-check them to make certain they are in compliance. With this language, those regulations will not come to the Legislative Commission; they will go to the Committee on Health Care first then to the Interim Finance Committee if needed, is that correct?

SENATOR HORSFORD:

On page 10, the Division of Health Care Financing and Policy will prepare and submit a report concerning the determination it makes pursuant to section 6 to the Legislative Commission, the Interim Finance Committee and the Legislative Committee on Health Care. All the areas needing to provide input will be involved in the process.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 233.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 642.

"SUMMARY—Makes various changes concerning scrap metal. (BDR 54-53)"

"AN ACT relating to scrap metal; enacting various requirements for transactions involving scrap metal and for persons involved in such transactions; providing that a person who removes, damages or destroys certain property to obtain scrap metal is guilty of a crime; increasing the penalty for stealing scrap metal under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2 and 3 of this bill define the terms "scrap metal" and "scrap metal processor."

Section 4 of this bill requires purchasers of scrap metal to hold current business licenses from both the State and the appropriate city or county and to have authorization to operate from the appropriate solid waste management authority.

Section 5 of this bill requires scrap metal processors to maintain certain records of all purchases of scrap metal by the scrap metal processors.

Section 6 of this bill allows peace officers or investigators to place a hold on certain property in the possession of a scrap metal processor alleged to be related to criminal activity for a specified period during the investigation or prosecution.

Section 7 of this bill requires that payments for purchases of scrap metal with a value of $150 or more by a scrap metal processor must be made by certain means and that a receipt containing certain specified information must be provided to the seller of the scrap metal. Section 7 also allows only a single cash transaction of less than $150 each day between a scrap metal processor and a seller.

Section 7.5 of this bill provides that a person who ~~[knowingly and willfully fails to comply with the provisions of sections 5, 6 and 7 is: (1) for a first or second offense within a period of 5 years,]~~ *violates any provision of section 5, 6 or 7 of this bill is* guilty of a misdemeanor *.* ~~[with varying terms of imprisonment and fines; and (2) for a third or subsequent offense within a period of 5 years, guilty of a category E felony.]~~

Section 9 of this bill excludes scrap metal from the definition of "junk" under chapter 647 of NRS. (NRS 647.015) Section 11 of this bill expands the crime of receiving property stolen from certain utilities and political subdivisions of the State, a category D felony, to include transactions involving scrap metal. (NRS 647.145)

Section 10 of this bill provides that chapter 647 of NRS does not prevent counties from licensing, taxing and regulating dealers in junk or scrap metal. (NRS 647.080)

Section 12 of this bill provides that a person who willfully or maliciously removes, damages or destroys utility property, agricultural infrastructure, construction sites or certain other property to obtain scrap metal is guilty of a misdemeanor if the value of the removal or damage of property is less than $500 or a felony if the removal or damage is greater than $500 or interrupts a service provided by utility property.

Existing law generally provides that a person commits petit larceny and is guilty of a misdemeanor if he steals property with a value of less than $250. (NRS 205.240) Existing law also generally provides that a person commits grand larceny if he steals property with a value of $250 or more. (NRS 205.220) A person who commits grand larceny is guilty of a category C felony if the value of the property is less than $2,500 and is guilty

of a category B felony if the value of the property is $2,500 or more. (NRS 205.222)

Section 13 of this bill: (1) provides that, if the value of the scrap metal stolen within a period of 90 days is less than $250, the person is guilty of a misdemeanor; (2) provides that, if the value of the scrap metal stolen within a period of 90 days is $250 or more, the person is guilty of a category C or B felony with varying terms of imprisonment and fines, depending upon the value of the scrap metal stolen within the 90-day period; (3) requires the court to order a person who steals scrap metal to pay restitution; and (4) provides that the cost of repairing or replacing property damaged by the theft of scrap metal must be included in the value of the property that was stolen.

Sections 17 and 19 of this bill amend existing law to apply certain provisions governing larceny to the new crime of larceny described in section 13 of this bill involving scrap metal. (NRS 205.251, 205.980)

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

Section 1. Chapter 647 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7.5, inclusive, of this act.

Sec. 2. *1. "Scrap metal" means:*

(a) Nonferrous metals, scrap iron, stainless steel or other material or equipment which consists in whole or in part of metal and which is used in construction, agricultural operations, electrical power generation, transmission or distribution, cable, broadband or telecommunications transmission, railroad equipment, oil well rigs or any lights maintained by the State or a local government, including, without limitation, street lights, traffic-control devices, park lights or ballpark lights; and

(b) Catalytic converters.

2. The term does not include waste generated by a household, aluminum beverage containers, used construction scrap iron or materials consisting of a metal product in its original manufactured form which contains not more than 20 percent by weight nonferrous metal.

Sec. 3. *"Scrap metal processor" means any person who:*

1. Engages in the business of purchasing, trading, bartering or otherwise receiving scrap metal; or

2. Uses machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

Sec. 4. *A person shall not purchase scrap metal unless that person:*

1. Possesses both a valid business license issued by the State pursuant to NRS 360.780 and a valid business license from the city or county, as applicable, in which the person purchases scrap metal; and

2. Has obtained all required authorizations to operate from, or is otherwise registered with, the solid waste management authority for the area in which the person purchases scrap metal.

Sec. 5. *1. Every scrap metal processor shall maintain in his place of business a book or other permanent record in which must be made, at the time of each purchase of scrap metal, a record of the purchase that contains:*

(a) The date of the purchase.

(b) The name or other identification of the person or employee conducting the transaction on behalf of the scrap metal processor.

(c) A copy of the seller's valid personal identification card or valid driver's license issued by a state or a copy of the seller's valid United States military identification card.

(d) The name, street, house number and date of birth listed on the identification provided pursuant to paragraph (c) and a physical description of the seller, including his gender, height, eye color and hair color.

(e) A photograph, video record or digital record of the seller.

(f) The fingerprint of the right index finger of the seller. If the seller's right index finger is not available, the scrap metal processor must obtain the fingerprint of one of the seller's remaining fingers and thumbs.

(g) The license number and general description of the vehicle delivering the scrap metal that is being purchased.

(h) A description of the scrap metal that is being purchased which is consistent with the standards published and commonly applied in the scrap metal industry.

(i) The price paid by the scrap metal processor for the scrap metal.

2. All records kept pursuant to subsection 1 must be legibly written in the English language, if applicable.

3. A scrap metal processor shall document each purchase of scrap metal with a photograph or video recording which must be retained on-site for not less than 60 days after the date of the purchase.

4. All scrap metal purchased by the scrap metal processor and the records created in accordance with subsection 1, including, but not limited to, any photographs or video recordings, must at all times during ordinary hours of business be open to the inspection of a prosecuting attorney or any peace officer.

Sec. 6. *1. A peace officer or investigator who is involved in the investigation or prosecution of criminal activity may place a written hold for not more than 7 business days on any property in the possession of a scrap metal processor that is related or allegedly related to the criminal activity. A hold pursuant to this section may be extended for an additional period of not more than 7 business days by a peace officer or investigator by providing written notice to the scrap metal processor.*

2. While a hold is placed on property pursuant to this section, the scrap metal processor shall not remove or dispose of the property to any person other than the peace officer or investigator who placed the hold on the

property. A peace officer or investigator who placed a hold on property may obtain custody of the property from the scrap metal processor if the peace officer or investigator:

(a) Has obtained written authorization from the prosecuting attorney which includes, without limitation, a description of the property and an acknowledgment of the scrap metal processor's interest in the property; and

(b) Provides a copy of the written authorization to the scrap metal processor.

3. Property received by a peace officer or investigator pursuant to this section may be disposed of only in the manner set forth in NRS 52.385 or 179.125 to 179.165, inclusive.

4. A peace officer or investigator who places a hold on property pursuant to this section shall notify the scrap metal processor in writing when the investigation or prosecution has concluded or when the hold is no longer necessary, whichever occurs sooner.

Sec. 7. *1. For each purchase of scrap metal with a value of $150 or more by a scrap metal processor, the scrap metal processor must pay the seller only by check or electronic transfer of money. For payments made by check to a seller who represents a business, the check must be made payable to the business using the name of the business. A scrap metal processor shall not conduct more than one cash transaction of less than $150 with the same seller on the same day.*

2. A scrap metal processor shall provide a receipt to the seller on-site at the time of the purchase of scrap metal by the scrap metal processor. The receipt must include, without limitation, the following information:

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

(b) An identifying description and weight of the scrap metal that is being purchased;

(c) The price paid by the scrap metal processor for the scrap metal;

(d) A copy of the personal identification provided pursuant to paragraph (c) of subsection 1 of section 5 of this act; and

(e) The license number of the vehicle delivering the scrap metal that is being purchased.

Sec. 7.5. *Unless a greater penalty is provided pursuant to specific statute, a person who ~~[knowingly and willfully]~~ violates any provision of section 5, 6 or 7 of this act ~~[:~~*

~~1. For a first offense within a period of 5 years,]~~ is guilty of a misdemeanor . ~~[and shall be punished by a fine of not more than $500.~~

~~2. For a second offense within a period of 5 years, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 6 months and by a fine of not more than $1,000.~~

~~3. For a third or subsequent offense within a period of 5 years, is guilty of a category E felony and shall be punished as provided in NRS 193.130.]~~

Sec. 8. NRS 647.010 is hereby amended to read as follows:

647.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 647.011 to 647.018, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 647.015 is hereby amended to read as follows:

647.015 "Junk" includes old iron, copper, brass, lead, zinc, tin, steel and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper, and all other secondhand, used or castoff articles or material of any kind [.] *, but does not include scrap metal.*

Sec. 10. NRS 647.080 is hereby amended to read as follows:

647.080 The provisions of this chapter do not impair the power of cities *and counties* in this State to license, tax and regulate any person, firm or corporation now engaged in or hereafter engaged in the buying and selling of junk [.] *or scrap metal.*

Sec. 11. NRS 647.145 is hereby amended to read as follows:

647.145 1. Any *person, including, but not limited to, any* junk dealer *, scrap metal processor* or secondhand dealer, or any agent, employee or representative of a junk dealer *, scrap metal processor* or secondhand dealer, who buys or receives any junk *or scrap metal* which he knows or should reasonably know is ordinarily used by and belongs to a *cable, broadband, telecommunications,* telephone, telegraph, gas, water, electric or transportation company or county, city or other political subdivision of this State engaged in furnishing utility service, and who fails to use ordinary care in determining whether the person selling or delivering such junk *or scrap metal* has a legal right to do so, is guilty of criminally receiving such property.

2. A person convicted of criminally receiving junk *or scrap metal* is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 12. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who willfully and maliciously removes, damages or destroys any utility property, agricultural infrastructure or other agricultural property, lights maintained by the State or a local government, construction site or existing structure to obtain scrap metal shall be punished pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the value of the property removed, damaged or destroyed as described in subsection 1 is:

(a) Less than $500, a person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(b) Five hundred dollars or more, a person who violates the provisions of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. If the removal, damage or destruction described in subsection 1 causes an interruption in the service provided by any utility property, a

person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. In addition to any other penalty, the court may order a person who violates the provisions of subsection 1 to pay restitution.

5. In determining the value of the property removed, damaged or destroyed as described in subsection 1, the cost of replacing or repairing the property or repairing the utility property, agricultural infrastructure, agricultural property, lights, construction site or existing structure, if necessary, must be added to the value of the property.

6. As used in this section:

(a) "Scrap metal" has the meaning ascribed to it in section 2 of this act.

(b) "Utility property" means any facility, equipment or other property owned, maintained or used by a company or a city, county or other political subdivision of this State to furnish cable television or other video service, broadband service, telecommunication service, telephone service, telegraph service, natural gas service, water service or electric service, regardless of whether the facility, property or equipment is currently used to furnish such service.

Sec. 13. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who intentionally steals, takes and carries away scrap metal with a value of less than $250 within a period of 90 days is guilty of a misdemeanor.

2. A person who intentionally steals, takes and carries away scrap metal with a value of $250 or more within a period of 90 days is guilty of:

(a) If the value of the property taken is less than $2,500, a category C felony and shall be punished as provided in NRS 193.130; or

(b) If the value of the property taken is $2,500 or more, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

3. In addition to any other penalty, the court shall order a person who violates the provisions of subsection 1 or 2 to pay restitution.

4. In determining the value of the property taken, the cost of repairing and, if necessary, replacing any property damaged by the theft of the scrap metal must be added to the value of the property.

5. As used in this section, "scrap metal" has the meaning ascribed to it in section 2 of this act.

Sec. 14. NRS 205.2175 is hereby amended to read as follows:

205.2175 As used in NRS 205.2175 to 205.2707, inclusive, *and section 13 of this act,* unless the context otherwise requires, the words and terms defined in NRS 205.218 to 205.2195, inclusive, have the meanings ascribed to them in those sections.

Sec. 15. NRS 205.2195 is hereby amended to read as follows:

205.2195 "Property" means:

1. Personal goods, personal property and motor vehicles;

2. Money, negotiable instruments and other items listed in NRS 205.260;

3. Livestock, domesticated animals and domesticated birds; and

4. Any other item of value, whether or not the item is listed in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ *, or section 13 of this act.*

Sec. 16. NRS 205.240 is hereby amended to read as follows:

205.240 1. Except as otherwise provided in NRS 205.220, 205.226, 205.228 and 475.105, a person commits petit larceny if the person:

(a) Intentionally steals, takes and carries away, leads away or drives away:

(1) Personal goods or property, with a value of less than $250, owned by another person;

(2) Bedding, furniture or other property, with a value of less than $250, which the person, as a lodger, is to use in or with his lodging and which is owned by another person; or

(3) Real property, with a value of less than $250, that the person has converted into personal property by severing it from real property owned by another person.

(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or domesticated birds, with an aggregate value of less than $250, owned by another person.

2. ~~[A]~~ *Unless a greater penalty is provided pursuant to section 13 of this act, a* person who commits petit larceny is guilty of a misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 17. NRS 205.251 is hereby amended to read as follows:

205.251 For the purposes of NRS 205.2175 to 205.2707, inclusive ~~[.]~~ *, and section 13 of this act:*

1. The value of property involved in a larceny offense shall be deemed to be the highest value attributable to the property by any reasonable standard.

2. The value of property involved in larceny offenses committed by one or more persons pursuant to a scheme or continuing course of conduct may be aggregated in determining the grade of the larceny offenses.

Sec. 18. NRS 205.940 is hereby amended to read as follows:

205.940 1. Any person who in renting or leasing any personal property obtains or retains possession of such personal property by means of any false or fraudulent representation, fraudulent concealment, false pretense or personation, trick, artifice or device, including, but not limited to, a false representation as to his name, residence, employment or operator's license, is guilty of larceny and shall be punished as provided in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ *, and section 13 of this act.* It is a complete defense to any civil action arising out of or involving the arrest or detention of any person renting or leasing personal property that any representation made by him in obtaining or retaining possession of the personal property is contrary to the fact.

2. Any person who, after renting or leasing any personal property under an agreement in writing which provides for the return of the personal property to a particular place at a particular time fails to return the personal property to such place within the time specified, and who, with the intent to defraud the lessor or to retain possession of such property without the lessor's permission, thereafter fails to return such property to any place of business of the lessor within 72 hours after a written demand for the return of such property is made upon him by registered mail addressed to his address as shown in the written agreement, or in the absence of such address, to his last known place of residence, is guilty of larceny and shall be punished as provided in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ *, and section 13 of this act.* The failure to return the personal property to the place specified in the agreement is prima facie evidence of an intent to defraud the lessor or to retain possession of such property without the lessor's permission. It is a complete defense to any civil action arising out of or involving the arrest or detention of any person upon whom such demand was made that he failed to return the personal property to any place of business of the lessor within 20 days after such demand.

Sec. 19. NRS 205.980 is hereby amended to read as follows:

205.980 1. A person who is convicted of violating any provision of NRS 205.060 or 205.2175 to 205.2707, inclusive, *or section 13 of this act* is civilly liable for the value of any property stolen and not recovered in its original condition. The value of the property must be determined by its retail value or fair market value at the time the crime was committed, whichever is greater.

2. A person who is convicted of any other crime involving damage to property is civilly liable for the amount of damage done to the property.

3. The prosecutor shall notify the victim concerning the disposition of the criminal charges against the defendant within 30 days after the disposition. The notice must be sent to the last known address of the victim.

4. An order of restitution signed by the judge in whose court the conviction was entered shall be deemed a judgment against the defendant for the purpose of collecting damages.

5. Nothing in this section prohibits a victim from recovering additional damages from the defendant.

Sec. 20. This act becomes effective on July 1, 2009.

Senator Amodei moved the adoption of the amendment.

Remarks by Senators Amodei and Lee.

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

SENATOR AMODEI:

This amendment changes the original bill. Instead of a tiered system of fines and potential escalating misdemeanors to include a category E felony for a third offense, it makes violating this section a misdemeanor. Having no metal element for the violation of this is consistent with other statutes in NRS regarding violation of junkyard issues.

SENATOR LEE:

On page 4, line 29, the bill states, "the price paid by the scrap metal processor for the scrap metal." Are we going to make people explain how much they are paying for the price of copper or aluminum? Is not that information a business secret?

SENATOR AMODEI:

The testimony before the committee indicated that when the price of industrial metals, specifically copper, spiked at over $3 a pound, there were increased incidents of theft from existing and operating utilities.

Part of the problem in prosecuting these cases was that there was no paper trail. No one knew who they had sold the metal to or what had been paid for it. This is often a cash business.

The objective of this legislation is to create a paper trail for someone who is dealing in scrap and for someone who sells scrap, especially, industrial metals. It is, especially, important if the scrap is in a fabrication stage that lends itself to be used in utility transmission purposes. Under this legislation, a business will identify who they are doing business with and indicate what the amount of money was in the transaction. If there is a recent theft, then, law enforcement has an investigative trail to follow. They will have information on not only who sold it, but the dollar amount is important because under theft statutes, the amount indicates whether it is a felony receiving stolen property charge. It is important that when doing an investigation, the correct charge and an accurate amount stolen is identified. Also, the interruption in service and costs associated may be relevant and can be added to the charge.

SENATOR LEE:

That makes sense. Thank you.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 394.

Bill read third time.

Remarks by Senator Rhoads.

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

Thank you, Mr. President. This is the off-road highway vehicle bill that we have been working on for eight years. It will not go into effect until it is adequately funded. We are looking at some grants to see if we can get the funding started.

Roll call on Senate Bill No. 394:

YEAS—17.

NAYS—Carlton.

ABSENT—Coffin.

EXCUSED—Nolan, Townsend—2.

Senate Bill No. 394 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Legislative Operations and Elections, to which were referred Senate Bill No. 299; Assembly Bill No. 463, 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*

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 4, 23, 37, 44, 59, 61, 76, 105, 106, 111, 130, 139, 144, 147; Assembly Bills Nos. 177, 425.

Senator Horsford moved that the Senate adjourn until Monday, May 18, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 12:46 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate