THE ONE HUNDRED AND SIXTH DAY

CARSON CITY (Monday), May 18, 2009

Senate called to order at 11:20 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Patrick Propster.

Matthews 6:25, 26 New King James Version:

"Therefore, I say to you, do not worry about your life, what you will eat or what you will drink; nor about your body, what you will put on. Is not life more than food and the body more than clothing? Look at the birds of the air, for they neither sow nor reap nor gather into barns; yet your heavenly Father feeds them. Are you not of more value than they?"

Gracious Heavenly Father, Lord of all, we stand before You this day seeking first Your Kingdom, Your righteousness, that we might be guided by You in the matters of decision before us.

Lord, may our lives reflect the heart of You in all that we think, do and say. May Your direction, Oh Lord, not only be with us throughout this day but each and every day. This we pray in Thy Holy Name, Jesus.

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. 124, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 84, 370, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Energy, Infrastructure and Transportation, to which were referred Assembly Bills Nos. 186, 296, 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

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

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 423, 424, 425, 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. 318, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

Also, your Committee on Finance, to which were referred Senate Bills Nos. 234, 311, 415; Assembly Bill No. 13, 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 Health and Education, to which was referred Assembly Bill No. 319, 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. 88, 320, 361, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 370, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Taxation, to which were referred Assembly Bills Nos. 205, 378, 492, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BOB COFFIN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 16, 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. 27, 34, 66, 74, 79, 131, 132, 134, 169, 174, 209, 215, 217; Assembly Bills Nos. 401, 548, 554.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 111, 530, 550.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 125, Amendment No. 645; Senate Bill No. 170, Amendment No. 657, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 6.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 603 to Assembly Bill No. 389; Senate Amendment No. 575 to Assembly Bill No. 410; Senate Amendment No. 583 to Assembly Bill No. 415.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 35.

Resolution read.

Senator Coffin moved the adoption of the resolution, as amended.

Remarks by Senator Coffin.

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

We found there had been an error in the name of the support group. This is a technical correction.

Resolution adopted, as amended.

Resolution ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 111.

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

Motion carried.

Assembly Bill No. 401.

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

Motion carried.

Assembly Bill No. 530.

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

Motion carried.

Assembly Bill No. 548.

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

Motion carried.

Assembly Bill No. 550.

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

Motion carried.

Assembly Bill No. 554.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bill No. 473 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Care moved that Assembly Bill No. 101 be taken from the Second Reading File and placed on the Second Reading File on the next agenda`.

Remarks by Senator Care.

Motion carried.

Senator Care moved that Assembly Bills Nos. 313, 335 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 299.

Bill read second time.

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

Amendment No. 755.

"SUMMARY—Provides for ~~[payment of stipends and reimbursements for]~~ *the reimbursement of certain costs to* Legislators under certain circumstances. (BDR 17-561)"

"AN ACT relating to the Legislature; ~~[providing for the payment of a stipend to a Legislator during a regular session under certain circumstances;]~~ providing for the reimbursement of certain costs to a Legislator as a result of the service of the Legislator during a special session; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, members of the Legislature are entitled to receive compensation to be fixed in statute for not more than 60 days during a regular session and not more than 20 days during a special session. (Nev. Const. Art. 4, § 33) Existing statutory law sets forth the authorized compensation and expenses of Legislators during a regular or special session. (NRS 218.210-218.224)

~~[Section 2 of this bill provides, to the extent money is made available in the Legislative Fund for this purpose, for the payment from the Legislative Fund of a maximum stipend of $2,500 to a Legislator if the income of the Legislator was reduced as a result of the service of the Legislator during a regular session.]~~

Section 3 of this bill provides, to the extent money is made available in the Legislative Fund for this purpose, for the reimbursement of the following costs, incurred as a result of a Legislator's service during a special session: (1) the cost of travel to this State if a Legislator is traveling outside the State at the time a special session is held; and (2) any nonrefundable costs incurred by a Legislator for personal financial commitments made before the announcement of the special session.

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~*[1. To the extent that money is made available in the Legislative Fund for this purpose, each Legislator is entitled to receive a stipend pursuant to this section for each regular session of the Legislature if the Legislator demonstrates to the satisfaction of the Director of the Legislative Counsel Bureau that the income of the Legislator was reduced as the result of the service of the Legislator during the regular session.*~~

~~*2. The amount of a stipend pursuant to this section is equal to the amount of the reduction in income of the Legislator, except that no stipend may exceed $2,500 for any regular session.*~~

~~*3. A Legislator who wishes to receive a stipend pursuant to this section must request the stipend by submitting a written application to the Director of the Legislative Counsel Bureau on or before the June 30 immediately following the regular session for which the stipend is requested. The application must be made on a form provided by the Director and must be accompanied by a copy of such information as the Director requires to enable him to determine the eligibility of the Legislator for a stipend and the amount of the stipend to which the Legislator is entitled. The information that the Director may require includes, without limitation, copies of the relevant federal tax returns and paycheck stubs of the Legislator.*~~

~~*4. If the Director of the Legislative Counsel Bureau, after reviewing the application and accompanying information submitted by a Legislator, determines that the Legislator is entitled to a stipend pursuant to this section, the Director shall cause the stipend to be paid to the Legislator from the Legislative Fund.]*~~ *(Deleted by amendment.)*

Sec. 3. *If the Governor convenes the Legislature for a special session, each Legislator is entitled to receive, in addition to any amounts received pursuant to NRS 218.220 and to the extent money is made available in the Legislative Fund for this purpose, a reimbursement for:*

1. If the Legislator is traveling outside this State at the time a special session is held, the actual cost of travel from his location outside this State to this State to attend the special session.

2. Any costs incurred by a Legislator as a result of any personal financial commitments made by the Legislator before the announcement of the date of a special session that cannot be honored as a result of his attendance at the special session and which are nonrefundable, including, without limitation, the cost of airline tickets, vacation packages and tickets to special events.

Sec. 4. This act becomes effective on January 1, 2011.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Thank you, Mr. President. Amendment No. 755 deletes the provisions of this bill that would have authorized stipends for Legislators who apply for and who can show a reduction of income as a result of legislative service during a regular session of the Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 15.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 774.

"SUMMARY—Revises provisions governing sterilization requirements for dogs and cats. (BDR 50-203)"

"AN ACT relating to animals; requiring notice of any sterilization requirements for dogs and cats required by local ordinance to be posted in a public park and the office of each licensed veterinarian; requiring a retailer or dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance; ~~[providing that any local ordinance that requires the sterilization of dogs may not be enforced with respect to certain dogs;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the sterilization of pets that are released by various releasing agencies, including societies to prevent cruelty to animals, animal shelters, nonprofit entities that provide temporary shelter for pets and organizations that take into custody pets which have been abandoned, abused or neglected. (NRS 574.600-574.660) Section 1 of this bill requires each licensed veterinarian to post in his office written notice of any sterilization requirements for dogs or cats required by local ordinance. Section 1 further requires a governmental entity with jurisdiction over a public park to post written notice in the park of any sterilization requirements for the animals required by local ordinance. Sections 2 and 3 of this bill require a retailer or dealer who sells a dog or cat to disclose to the purchaser *the name and address of the breeder of the dog or cat and* any sterilization requirements for the animal required by local ordinance. (NRS 574.460, 574.470) A retailer or dealer who fails to comply with the disclosure requirements is subject to an administrative fine imposed by the Director of the State Department of Agriculture in an amount not to exceed $250 for the first violation, $500 for the second violation and $1,000 for each subsequent violation. (NRS 574.485) ~~[Section 3 also provides that any local ordinance which requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily for hunting, purposes relating to farming or agriculture, breeding or drawing heavy loads, or as a service animal or service animal in training.]~~

Section 4 of this bill provides that a retailer, dealer or operator must not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500)

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensed veterinarian shall post written notice in a conspicuous place in his office of any sterilization requirements for dogs or cats required by local ordinance.

2. A governmental entity with jurisdiction over a public park in which dogs or cats are allowed shall post written notice in a conspicuous place in the park of any sterilization requirements for dogs or cats required by local ordinance.

3. As used in this section, "licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

Sec. 2. NRS 574.460 is hereby amended to read as follows:

574.460 1. A retailer or dealer shall, before selling a cat, provide the purchaser of the cat with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the cat was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the cat and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the cat ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the cat's sire and dam with the appropriate breed registry or any health certifications from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the cat before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) *Any sterilization requirements for the cat required by local ordinance.*

(h) The medical history of the cat, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and determined that the cat did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the cat is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) *The date on which the veterinarian sterilized the cat, if applicable.*

(4) The name and address of the veterinarian who performed the examinations , ~~[or]~~ reexaminations *or sterilization* or administered any treatments or medications.

~~[(h)]~~ *(i)* That a copy of the veterinarian's evaluation of the health of the cat made pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

Sec. 3. NRS 574.470 is hereby amended to read as follows:

574.470 1. A retailer or dealer shall, before selling a dog, provide the purchaser of the dog with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the dog was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the dog and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the dog ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the dog's sire and dam with the appropriate breed registry or any health certificates from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the dog before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) *Any sterilization requirements for the dog required by local ordinance.*

(h) The medical history of the dog, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and determined that the dog did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the dog is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and, if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) *The date on which the veterinarian sterilized the dog, if applicable.*

(4) The name and address of the veterinarian who performed the examinations , ~~[or]~~ reexaminations *or sterilization* or administered any treatments or medications.

~~[(h)]~~ *(i)* That a copy of the veterinarian's evaluation of the health of the dog performed pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as

an attestation that he has read and understands the disclosures contained in the statement.

~~[3. Any local ordinance that requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily:~~

~~(a) For hunting;~~

~~(b) For purposes relating to farming or agriculture;~~

~~(c) For breeding;~~

~~(d) For drawing heavy loads; or~~

~~(e) As a service animal or a service animal in training, as those terms are defined in NRS 426.097 and 426.099, respectively.]~~

Sec. 4. NRS 574.500 is hereby amended to read as follows:

574.500 A retailer, dealer or operator shall not separate a dog or cat from its mother until it is *8 weeks of age or* accustomed to taking food or nourishment other than by nursing ~~[.]~~ *, whichever is later.*

Senator Parks moved the adoption of the amendment.

Remarks by Senators Parks, Raggio and Cegavske.

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

SENATOR PARKS:

This amendment removes language providing for exceptions to any local ordinance that requires the sterilization of dogs. This bill was extensively amended to make for a reduced bill. The amendment's language provides for exceptions to any local ordinance that requires the sterilization of dogs. The exception language became obsolete when the bill was amended in the Assembly, but this language was inadvertently left in the bill. The amendment also removes the words "if any" when referring to collecting contact information from breeders of cats and dogs, which now will require a retailer or dealer who sells a dog or cat to disclose to the purchaser the name and address of the breeder of the dog or cat.

SENATOR RAGGIO:

Though I understand your explanation, I would like to be reassured about the language on page 4 of the amendment. It deletes the exemption for hunting, farming, breeding or service dogs. I would like to be reassured that sterilization is not now required for those specially-trained animals.

SENATOR PARKS:

Thank you, Mr. President. The reference to the "if any" was determined to be unnecessary and allowed a loophole when it was originally enacted. The intent of "the pet stores are required to list the breeders' name and address" comes from a breeder initially. Listing their names was to protect the health of the animals. The purchaser would be afforded comfort if the animals should fall ill. The law intended to put in place a paper trail. The second part of the statement referred to the U.S. Department of Agriculture, which is the over-all fail-safe group who issues permits for large-scale operations. This properly delineated those breeders from small-scale breeders.

Subsection 3 was determined to be not needed since it was included only to help with the original amendment. The amendment the committee was asked to consider was to make it a requirement for pet stores to sterilize pets prior to sale. When the language was deleted, this companion legislation should also have been deleted. If it is not deleted, it has the negative impact on our current animal ordinances. Animal control officers are concerned about this language and strongly recommended its deletion.

SENATOR CEGAVSKE:

I have gotten more emails about this bill than I have on anything else this Session. Did you discuss feral cats when discussing this amendment? How do we handle sterilization of them? If a

person has a dog and does not have the dog sterilized, are there penalties or fines? There are animals that have seizures and cannot undergo anesthesia without severe risk. They can die. Was this considered?

SENATOR PARKS:

I have received many emails about this bill. Most of the emails dealt with the bill in the form it came to us from the Assembly. Many breeders have not received the information with the amendment. The issue about feral cats was brought up in Senate Bill No. 132 and Senate Bill No. 133. There was no discussion during this bill. There was no discussion about animals suffering seizures.

SENATOR CEGAVSKE:

Would the committee consider putting that language in? There are dogs and cats that cannot have anesthesia. Could they use the language, "for medical reasons, or injury to the pet"? Anesthesia is risky, and I would appreciate it if that could be considered.

Senator Parks moved that Assembly Bill No. 15 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Assembly Bill No. 26.

Bill read second time.

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

Amendment No. 703.

"SUMMARY—Revises provisions governing charter schools. (BDR 34-411)"

"AN ACT relating to charter schools; revising the deadline for submission of an application for renewal of a written charter; revising provisions governing the exemption from annual performance audits for certain charter schools; revising certain annual reports concerning the progress made by charter schools; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill changes the deadline by which a charter school must submit an application for renewal of the written charter from 90 days to 120 days before the expiration of the charter. (NRS 386.530)

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from the requirement of an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) Section 2 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 will be required to submit to an annual performance audit. After undergoing the annual performance audit, the charter school may reapply for the exemption.

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 3 of this bill requires an annual report to be made by the Department of Education 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 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than ~~[90]~~ *120* days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

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

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

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

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

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

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

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

Sec. 2. 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]~~ Notwithstanding the provisions of paragraph (b) of subsection 1, 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 paragraphs (a), (c), (d) and (e) 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. 3. 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, the* board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the *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. 4. 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. 703 to Assembly Bill No. 26 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.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 56.

Bill read second time.

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

Amendment No. 702.

"SUMMARY—Revises provisions governing pupils with disabilities. (BDR 34-635)"

"AN ACT relating to education; revising provisions governing the use of physical restraint and mechanical restraint on pupils with disabilities; revising provisions relating to reports of the use of restraints and reports of violations; providing for the reporting of the use of corporal punishment on a pupil in public school; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prescribes the requirements for the use of physical restraint or mechanical restraint on a pupil with a disability who is enrolled in a public

school or a private school. (NRS 388.521-388.5315, 394.353-394.378) Sections 1 and 7 of this bill require each school district and each private school which provides services to pupils with disabilities to submit annual reports to the Department of Education on the use of physical restraint and mechanical restraint on pupils with disabilities during the previous school year.

Sections 3, 4, 9 and 10 of this bill provide that if physical restraint or mechanical restraint is used on a pupil with a disability three times during 1 school year, the circumstances of the restraint must be reviewed and reported. If such restraint is used five times during 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, developed pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., must be reviewed. If the restraint continues after such a review, the school district or private school, as applicable, and the pupil's parent or legal guardian ~~[must explore]~~ *shall include* additional positive behavioral approaches *in the pupil's services plan or program, as applicable,* so that the restraint does not continue. (NRS 388.5275, 388.528, 394.368, 394.369)

Existing law prescribes the requirements for the use of mechanical restraint on a pupil with a disability enrolled in a public school or private school, including a requirement that the pupil's physician issue a medical order authorizing the use of mechanical restraint before the application of the restraint or not later than 15 minutes after the application of the restraint. (NRS 388.528, 394.369) Sections 4 and 10 of this bill eliminate the requirement of a medical order for each application of the mechanical restraint and instead require that a medical order authorizing the use of mechanical restraint be included in the pupil's individualized education program or the pupil's services plan, as applicable.

Existing law provides that corporal punishment may not be used on a pupil in any public school. (NRS 392.4633) Section 6 of this bill provides that a person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency finds that the report is substantiated, the agency shall forward the report to the Department, local law enforcement agency and the county district attorney for further investigation.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall, on or before August 1 of each year, prepare a report in the form prescribed by the Department that includes, without limitation, for each school within the school district:

(a) The number of instances in which physical restraint was used at the school during the immediately preceding school year, which must indicate

the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 388.521 to 388.5315, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil.

2. The board of trustees of each school district shall prescribe a form for each school within the school district to report the information set forth in subsection 1 to the school district and the time by which those reports must be submitted to the school district.

3. On or before August 15 of each year, the board of trustees of each school district shall submit to the Department the written report prepared by the board of trustees pursuant to subsection 1.

4. The Department shall compile the data received by each school district pursuant to subsection 3 and prepare a written report of the compilation, disaggregated by school district. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

5. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 2. NRS 388.521 is hereby amended to read as follows:

388.521 As used in NRS 388.521 to 388.5315, inclusive, *and section 1 of this act,* unless the context otherwise requires, the words and terms defined in NRS 388.5215 to 388.526, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 388.5275 is hereby amended to read as follows:

388.5275 1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;

(b) Escort or carry ~~[a]~~ *the* pupil to safety if the pupil is in danger in his present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district ~~[,]~~ *or its designee,* the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees *or its designee* determines that a denial of the pupil's rights has occurred, the board of trustees ~~[may]~~ *or its designee shall* submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of physical restraint in his record pursuant subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report to the school district on its findings.

5. If a pupil with a disability has five reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall ~~[consider]~~ include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

Sec. 4. NRS 388.528 is hereby amended to read as follows:

388.528 1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint ~~[is obtained]~~ from the pupil's treating physician *is included in the pupil's individualized education program* before the application of the mechanical restraint *;* ~~[or not later than 15 minutes after the application of the mechanical restraint;]~~

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable ~~[;]~~ *after the application of the mechanical restraint;*

(d) The mechanical restraint is applied by a member of the staff of the school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop ~~[or control his inappropriate behavior]~~ *injury to himself* without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the school who applied the mechanical restraint;

(h) A member of the staff of the school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself . ~~[or others or causing severe property damage.]~~

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's individualized education program.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district ~~[,]~~ *or its designee,* the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees *or its designee* determines that a denial of the pupil's rights has occurred, the board of trustees ~~[may]~~ *or its designee shall* submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report of its findings to the school district.

5. If a pupil with a disability has five reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's

individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall ~~[consider]~~ *include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.*

Sec. 5. NRS 388.5315 is hereby amended to read as follows:

388.5315 1. A denial of rights of a pupil with a disability pursuant to NRS 388.521 to 388.5315, inclusive, *and section 1 of this act* must be entered in the pupil's cumulative record and a confidential file maintained for that pupil. Notice of the denial must be provided to the board of trustees of the school district ~~[.]~~ *or its designee.*

2. If the board of trustees of a school district *or its designee* receives notice of a denial of rights pursuant to subsection 1, ~~[it]~~ *the board of trustees or its designee* shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. A copy of the report must be provided to the Department.

3. The Department:

(a) Shall receive reports made pursuant to subsection 2;

(b) May investigate apparent violations of the rights of pupils with disabilities; and

(c) May act to resolve disputes relating to apparent violations.

Sec. 6. NRS 392.4633 is hereby amended to read as follows:

392.4633 1. Corporal punishment ~~[may]~~ *must* not be administered upon a pupil in any public school.

2. Subsection 1 does not prohibit any teacher, principal or other licensed person from defending himself if attacked by a pupil.

3. *A person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency determines that the complaint is substantiated, the agency shall forward the complaint to the Department, the appropriate local law enforcement agency within the county and the district attorney's office within the county for further investigation.*

4. As used in this section ~~[, "corporal punishment"]~~ *:*

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Corporal punishment" means the intentional infliction of physical pain upon or the physical restraint of a pupil for disciplinary purposes. The term does not include the use of reasonable and necessary force:

~~[(a)]~~ *(1)* To quell a disturbance that threatens physical injury to any person or the destruction of property;

~~[(b)]~~ *(2)* To obtain possession of a weapon or other dangerous object within a pupil's control;

~~[(c)]~~ *(3)* For the purpose of self-defense or the defense of another person; or

~~[(d)]~~ *(4)* To escort a disruptive pupil who refuses to go voluntarily with the proper authorities.

Sec. 7. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The administrative head of each private school that provides instruction to pupils with disabilities shall, on or before August 15 of each year, prepare a report that includes, without limitation:

(a) The number of instances in which physical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 394.353 to 394.378, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the private school and per pupil enrolled at the private school.

2. On or before August 15 of each year, the administrative head of each private school that provides instruction to pupils with disabilities shall submit to the Department the report prepared pursuant to subsection 1. The report must be in the form prescribed by the Department.

3. The Department shall compile the data submitted by each private school pursuant to subsection 2 and prepare a written report of the compilation, disaggregated by each private school. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

4. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 8. NRS 394.353 is hereby amended to read as follows:

394.353 As used in NRS 394.353 to 394.378, inclusive, *and section 7 of this act,* unless the context otherwise requires, the words and terms defined in NRS 394.354 to 394.365, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. NRS 394.368 is hereby amended to read as follows:

394.368 1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;

(b) Escort or carry ~~[a]~~ *the* pupil to safety if the pupil is in danger in his present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record not later than 1 working day after the procedure is used. A copy of the report must be provided to the Superintendent, the administrator of the private school, the pupil's individualized education program team, if applicable, and the parent or guardian of the pupil. If the administrator of the private school determines that a denial of the pupil's rights has occurred, the administrator shall submit a report to the Superintendent in accordance with NRS 394.378.

4. If a pupil with a disability has three reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the private school in which the pupil is enrolled shall review the circumstances of the restraint on the pupil and report its findings to the Superintendent.

5. If a pupil with a disability has five reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program or services plan has been reviewed, the private school and the parent or legal guardian of the pupil shall ~~[consider]~~ include in the pupil's individualized education program or services plan, as applicable, additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

Sec. 10. NRS 394.369 is hereby amended to read as follows:

394.369 1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint ~~[is obtained]~~ from the pupil's treating physician *is included in the pupil's services plan developed pursuant to 34 C.F.R. § 300.138 or the pupil's individualized education program, whichever is appropriate,* before the application of the mechanical restraint *;* ~~[or not later than 15 minutes after the application of the mechanical restraint;]~~

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable after the application of the mechanical restraint;

(d) The mechanical restraint is applied by a member of the staff of the private school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the private school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop ~~[or control his inappropriate behavior]~~ *injury to himself* without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the private school who applied the mechanical restraint;

(h) A member of the staff of the private school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself . ~~[or others or causing severe property damage.]~~

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's service plan developed pursuant to 34 C.F.R. § ~~[300.455]~~ *300.138* or the pupil's individualized education program, whichever is appropriate.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record not later than 1 working day after the procedure is used. A copy of the report must be provided to the Superintendent, the administrator

of the private school, the pupil's individualized education program team, if applicable, and the parent or guardian of the pupil. If the administrator of the private school determines that a denial of the pupil's rights has occurred, the administrator shall submit a report to the Superintendent in accordance with NRS 394.378.

4. *If a pupil with a disability has three reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the private school in which the pupil is enrolled shall review the circumstances of the use of the restraint on the pupil and provide a report to the Superintendent on its findings.*

5. If a pupil with a disability has five reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program or services plan has been reviewed, the private school and the parent or legal guardian of the pupil shall ~~[consider]~~ include in the pupil's individualized education program or services plan, as applicable, additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

6. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

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

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

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

Amendment No. 702 to Assembly Bill No. 56 requires, under certain circumstances, additional positive-behavioral approaches to be included in the pupil's services plan or program to ensure that restraint of the pupil does not continue. It clarifies that mechanical restraint may be used on a pupil only if the restraint is lessened or discontinued to determine if the pupil will stop injury to himself without the restraint.

This is a complicated bill. Currently, schools and Boards of Education, under statute, are required to adopt policies and procedures on how students who may have profound disabilities and other learning problems may be restrained by mechanical means for those who may have a profound physical disability or even a psychological disability. Current law exists that encompasses procedures on handling these students. The amendment and the bill requires, more specific reporting on an annual basis of these types of restraints when they are used and to also put into place procedures for discontinuing these restraints on an occasional basis to determine whether or not the student actually needs them.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 87.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 661.

"SUMMARY—Revises provisions concerning the collection of debts owed to the State. (BDR 31-494)"

"AN ACT relating to state administration; revising the provisions governing the collection of certain debts owed to state agencies; ~~[revising certain provisions relating to the applicability of certain statutes of limitation to actions brought by or on behalf of the State;]~~ establishing certain presumptions applicable to certain civil actions against employers who fail to provide mandatory industrial insurance or coverage for occupational disease; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, unless a specific statute provides for the collection of a debt owed to an agency of the Executive Branch of State Government, the collection of the debt is governed by the provisions of chapter 353C of NRS. (NRS 353C.090) Under existing law, an agency may engage in its own collection efforts using the procedures and remedies established by chapter 353C of NRS or the agency may request the State Controller to act as its collection agent for that purpose. (NRS 353C.195) Section 17 of this bill requires the State Controller to act as the collection agent for all agencies which do not have specific statutes concerning their debt collection or which have not obtained a waiver from the State Controller authorizing the agency to engage in its own collection efforts. Accordingly, section 17 also requires all such agencies to assign their debts to the State Controller for collection within 60 days after the debt becomes past due or such other time agreed upon by the agency and the State Controller, unless the debtor has administratively contested the existence or amount of the debt. Finally, section 17 authorizes an agency that has specific statutory authority to engage in its own collection efforts to assign a debt to the State Controller for collection or to exercise in its own debt collection efforts the additional rights and remedies conferred on the State Controller to collect debts. (NRS 353C.195) Section 11 of this bill increases the *threshold* amount of ~~[reimbursement allowed]~~ *debt* for *which* the costs and fees actually incurred to collect the debt *may be collected from $200 to $300, requires the payment of a fee to the State Controller and increases the limitation on the total amount of such costs and fees* to an amount not to exceed 35 percent of the debt or $50,000, whichever is less. Sections 10, 12-16 and 18-20 of this bill make technical changes to substitute the State Controller as the person authorized to undertake the collection of debts owed to an agency using the procedures and remedies provided under existing law. (NRS 353C.130, 353C.140, 353C.150, 353C.160, 353C.180, 353C.190, 353C.200, 353C.210, 353C.220)

Sections 2-6 of this bill establish new procedures, rights and remedies in connection with the collection of debts owed to agencies. Section 2 authorizes, with certain exceptions, an agency to refuse to conduct business with a person who has an unpaid debt to the State and also authorizes the State Controller to refuse to make a payment to such a debtor. Section 4 authorizes the State Controller to appoint a private debt collector or other person as his agent to obtain a summary judgment against a debtor and to record that judgment or to file a certificate of liability with a county recorder. Section 5 authorizes the State Controller, with the approval of the agency to which the debt is owed, to accept the payment of a portion of a debt as satisfaction of the full amount of the debt if the State Controller believes that doing so is likely to generate more net revenue for the State than continuing his efforts to collect the full amount of the debt. Section 6 authorizes the State Controller to sell a debt that is no longer collectible in a suit by the Attorney General because of the expiration of the statute of limitations applicable to such a suit.

Section 7 of this bill ~~[requires the State Controller to transfer to an agency]~~ *specifies the disposition of* any money collected by the State Controller on behalf of ~~[the]~~ *an* agency minus any *fees owed to and* costs incurred or fees paid by the State Controller to collect any debt that has been assigned to him for collection by the agency and any interest paid by a debtor under an agreement with the State Controller for the payment of the debt on an installment basis. *Section 7.3 of this bill creates the Debt Recovery Account in the State General Fund and limits the use of the money in the Account to support of the debt collection efforts of the State Controller.* Sections 8, 9 and 22 of this bill revise certain rulemaking authority relating to the collection of debts. (NRS 353C.110, 353C.120)

~~[Existing law includes chapter 11 of NRS which contains most of the statutes that limit the amount of time following the accrual of a cause of action during which a civil action may be filed. These statutes are commonly referred to as statutes of limitation. Existing law also provides that the same statutes of limitation that apply to actions brought by private individuals also apply to actions brought on behalf of the State, other than actions for the recovery of real property. Section 21 of this bill reverses the provisions governing the statutes of limitation for causes of actions brought in the name of the State or for the benefit of the State to provide that none of the provisions of chapter 11 of NRS concerning statutes of limitation apply to actions brought by or on behalf of the State, other than actions for the recovery of real property. (NRS 11.255)]~~

Under existing law, an employer who fails to maintain mandatory industrial insurance coverage and mandatory coverage for occupational disease for an employee is liable to the Division of Industrial Relations of the Department of Business and Industry for any costs incurred by the Division to compensate the employee if he is injured or contracts an occupational disease that arises out of and in the course of his employment.

(NRS 616C.220, 617.401) Sections 21.3 and 21.7 of this bill create a presumption that in any suit brought against such an employer to recover those costs, the Division's payments were: (1) justified by the circumstances of the claim; (2) reasonable and necessary; and (3) made in accordance with applicable law. Sections 21.3 and 21.7 also authorize the State Controller to bring suit in his own name to collect debts arising under those sections if the Division assigns the debts to him for collection.

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

Section 1. Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[7,]~~ *7.3,* inclusive, of this act.

Sec. 2. *1. Except as otherwise provided in this section, an agency may refuse to conduct a transaction with, and the State Controller may refuse to draw his warrant in favor of, a person who owes a debt to an agency until the debt is paid or the debtor enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.*

2. An agency may not refuse to conduct a transaction with, and the State Controller may not refuse to draw his warrant in favor of, a debtor if:

(a) The refusal violates or is prohibited by a state or federal law or court order;

(b) The refusal violates a term or condition of a grant, contract or other agreement that the agency administers or to which the agency is a party; or

(c) The State Controller determines that the refusal is inequitable.

Sec. 3. (Deleted by amendment.)

Sec. 4. *1. Notwithstanding any specific statute to the contrary, if an agency has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller may:*

(a) Appoint a private debt collector or any other person as his agent to:

(1) File an application for the entry of summary judgment against the debtor pursuant to NRS 353C.150; or

(2) Record a certificate of liability against the debtor in the office of a county recorder pursuant to NRS 353C.180; and

(b) Authorize his agent to incur any reasonable costs, including, without limitation, attorney's fees, that are necessary to carry out his duties pursuant to the appointment.

2. The State Controller must, before he appoints an agent pursuant to this section, determine that making the appointment is likely to generate more net revenue for the State than other methods available to the State Controller to collect the debt.

Sec. 5. *Notwithstanding any specific statute to the contrary, the State Controller may enter into an agreement with a debtor to accept the payment of a portion of the debt in full satisfaction of the debt, including any penalty and interest, if:*

1. The State Controller determines that accepting the agreed upon amount is likely to generate more net revenue for the State than continuing efforts to collect the full amount of the debt; and

2. The agency to which the debt is owed approves.

Sec. 6. *If the period of limitation for the collection of a debt set forth in NRS 353C.140 has expired, the State Controller may, in lieu of requesting the State Board of Examiners to designate the debt as a bad debt pursuant to NRS 353C.220, sell the debt to any person.*

Sec. 7. *1. If the State Controller collects any money owed to an agency from a debtor or receives any money from a private debt collector or other person to whom the State Controller has assigned the collection of a debt ~~[,]~~ owed to an agency, the State Controller shall, unless prohibited by federal law, transfer the net amount of money owed to the agency ~~[to which the debt is owed minus the amount of:~~*

~~1.]~~ :

(a) Except as otherwise provided in paragraph (c), to the Debt Recovery Account created by section 7.3 of this act if the debt is owed to an agency whose budget is supported exclusively or in part from the State General Fund.

(b) Except as otherwise provided in paragraph (c), to an account specified by the agency if the debt is owed to an agency whose budget is supported exclusively from sources other than the State General Fund.

(c) If a specific statute requires the money to be deposited in a specific account or used for a specific purpose, to the specific account required by statute or to the account from which money is expended for the purpose specified.

2. As used in this section, "net amount of money owed to the agency" means the money owed to an agency by a debtor that is collected or received by the State Controller minus:

(a) Any fees owed pursuant to a specific statute to the State Controller for collection of the debt;

(b) Any costs incurred or fees paid by the State Controller to collect any debt assigned to him for collection by the agency ~~[.~~

~~2.]~~ ; and

(c) Any interest on the debt collected by the State Controller under the terms of an agreement with the debtor, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

Sec. 7.3. 1. The Debt Recovery Account is hereby created in the State General Fund.

2. Money in the Account may only be used for support of the debt collection efforts of the State Controller pursuant to this chapter.

3. Money transferred to the Account is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purpose set forth in subsection 2.

4. Upon the approval of the Interim Finance Committee, the State Controller may expend money in the Account.

Sec. 7.5. NRS 353C.090 is hereby amended to read as follows:

353C.090 ~~[The]~~ *Except as otherwise provided in NRS 353C.195, the* provisions of this chapter apply to an agency only to the extent that no other specific statute exists which provides for the collection of debts due the agency . To ~~*[or, if such a specific statute exists, the agency has assigned a debt to the State Controller pursuant to NRS 353C.195. Except in the case of such an assignment, to]*~~ the extent that the provisions of this chapter conflict with such a specific statute, the provisions of the specific statute control ~~[.]~~ *until a debt is assigned to the State Controller for collection.*

Sec. 8. NRS 353C.110 is hereby amended to read as follows:

353C.110 The ~~[Director of the Department of Administration and the Attorney General may jointly]~~ *State Controller may* adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 9. NRS 353C.120 is hereby amended to read as follows:

353C.120 1. Each agency shall submit to the State Controller periodic reports of the debts owed to the agency. The State Controller shall maintain the reports . ~~[to the extent that resources are available. The Director of the Department of Administration and]~~ *The State Controller and* the Attorney General shall jointly prescribe the time, form and manner of the reports.

2. Except to the extent that the information on the reports is declared to be confidential by a specific statute of this State or federal law, the State Controller shall make the reports available for public inspection and may, without charge, make available for access on the Internet or its successor, if any, the information contained in the reports.

Sec. 10. NRS 353C.130 is hereby amended to read as follows:

353C.130 ~~[An agency]~~ *The State Controller* may enter into an agreement with a debtor which provides for the payment of a debt owed by the debtor to ~~[the]~~ *an* agency on an installment basis over a 12-month or lesser period. Upon good cause shown by the debtor, the ~~[agency]~~ *State Controller* may extend the period during which installment payments will be made for more than a 12-month period.

Sec. 11. NRS 353C.135 is hereby amended to read as follows:

353C.135 *1.* Except as otherwise provided *in subsection 2 or* by *a* specific statute, a person who owes a debt of more than ~~[$200]~~ *$300* pursuant to this chapter shall, in addition to the debt, pay ~~[as reimbursement for the]~~ *:*

(a) The costs and fees actually incurred to collect the debt ~~[an amount]~~ *; and*

(b) A fee payable to the State Controller in the amount of 2 percent of the amount of the debt assigned to the State Controller for collection pursuant to NRS 353C.195.

2. The total amount of costs and fees required pursuant to subsection 1 must not ~~[to]~~ exceed ~~[25]~~ *35* percent of the amount of the debt or ~~[$25,000,]~~

$50,000, whichever is less. Any prejudgment or postjudgment interest on the debt authorized by law must not be included in the calculation of the costs and fees actually incurred to collect the debt.

Sec. 12. NRS 353C.140 is hereby amended to read as follows:

353C.140 If a person has not paid a debt that the person owes to an agency, the Attorney General, upon the request of the ~~[agency:]~~ *State Controller:*

1. Except as otherwise provided in this section, shall bring an action in a court of competent jurisdiction; or

2. If the action is a small claim subject to chapter 73 of NRS, may bring an action in a court of competent jurisdiction,

➥ on behalf of this State ~~[and the agency]~~ to collect the debt, plus any applicable penalties and interest. The action must be brought not later than 4 years after the date on which the debt became due or within 5 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

Sec. 13. NRS 353C.150 is hereby amended to read as follows:

353C.150 1. In addition to any other remedy provided for in this chapter, if a person who owes a debt to an agency:

(a) Fails to pay the debt when it is due, or fails to pay an agreed upon amount in satisfaction of the debt; or

(b) Defaults on a written or other agreement ~~[with an agency]~~ relating to the payment of the debt,

➥ the ~~[agency]~~ *State Controller* may, within 4 years after the date on which the debt became due or the date on which the debtor defaulted, as appropriate, file with the office of the clerk of a court of competent jurisdiction an application for the entry of summary judgment against the debtor for the amount due.

2. ~~[An agency that intends to file an application for the entry of summary judgment pursuant to this section]~~ *The State Controller* shall, not less than 15 days before the date on which ~~[the agency]~~ *he* intends to file the application, notify the debtor of ~~[its]~~ *his* intention to file the application. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[,]~~ *to which the debt is owed,* the amount sought to be recovered and the date on which the application will be filed with the court.

3. An application for the entry of summary judgment must:

(a) Be accompanied by a certificate that specifies:

(1) The amount of the debt, including any interest and penalties due;

(2) The name and address of the debtor, as the name and address of the debtor appear on the records of the ~~[agency;]~~ *State Controller;*

(3) The basis for the determination ~~[by the agency]~~ of the amount due; and

(4) That the ~~[agency]~~ *State Controller* has complied with the applicable provisions of law relating to the determination of the amount required to be paid; and

(b) Include:

(1) A request that judgment be entered against the debtor for the amount specified in the certificate; and

(2) Evidence that the debtor was notified of the application for the entry of summary judgment in accordance with subsection 2.

Sec. 14. NRS 353C.160 is hereby amended to read as follows:

353C.160 The court clerk, upon the filing of an application for the entry of summary judgment which complies with the requirements set forth in NRS 353C.150, shall forthwith enter a judgment ~~[for the agency]~~ against the debtor in the amount of the debt, plus any penalties and interest, as set forth in the certificate. The ~~[agency]~~ *State Controller* shall serve a copy of the judgment, together with a copy of the application and the certificate, upon the debtor against whom the judgment is entered, either by personal service or by mailing a copy to the last known address of the debtor . ~~[as it appears in the records of the agency.]~~

Sec. 15. NRS 353C.180 is hereby amended to read as follows:

353C.180 1. In addition to any other remedy provided for in this chapter, ~~[an agency]~~ *the State Controller* may, within 4 years after the date that a debt becomes due, record a certificate of liability in the office of a county recorder which states:

(a) The amount of the debt, together with any interest or penalties due thereon;

(b) The name and address of the debtor , as the name and address of the debtor appear on the records of the ~~[agency;]~~ *State Controller;*

(c) That the ~~[agency]~~ *State Controller* has complied with all procedures required by law for determining the amount of the debt; and

(d) That the ~~[agency]~~ *State Controller* has notified the debtor in accordance with subsection 2.

2. ~~[An agency that intends to file a certificate of liability pursuant to this section]~~ *The State Controller* shall, not less than 15 days before the date on which ~~[the agency]~~ *he* intends to file the certificate, notify the debtor of ~~[its]~~ *his* intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[,]~~ *to which the debt is owed,* the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and

continues for 5 years after the date of recording unless sooner released or otherwise discharged.

4. Within 5 years after the date of the recording of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording, the lien is extended for 5 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 16. NRS 353C.190 is hereby amended to read as follows:

353C.190 1. The State Controller may ~~[, to the extent that resources are available,]~~ offset any amount due an agency from a debtor against any amount owing to that debtor by any agency, regardless of whether the agency which owes the amount is the same agency to which the debtor owes the debt. Whenever the combined amount owing to a debtor by all agencies is insufficient to offset all the amounts due the agencies from the debtor, the State Controller shall allocate the amount available from the debtor among the agencies in such a manner as the State Controller determines is appropriate.

2. If a debtor who owes a debt to an agency has a claim against that agency or another agency and refuses or neglects to file his claim with the agency within a reasonable time, the ~~[head of the agency to which the debtor owes the debt]~~ *State Controller* may file the claim on behalf of the debtor. If the State Controller ~~[approves]~~ *files* the claim, it has the same force and effect as though filed by the debtor. The amount due the debtor from the agency is the net amount otherwise owing to the debtor after any offset as provided in this section.

3. The State Controller shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, the manner in which offsets will be allocated among agencies.

Sec. 17. NRS 353C.195 is hereby amended to read as follows:

353C.195 *Except as otherwise provided in this section or by a specific statute or federal law:*

1. The State Controller ~~[may, if requested by any state agency,]~~ *shall* act as the collection agent for ~~[that]~~ *each* agency.

2. ~~[If the State Controller acts as the collection agent for an agency, the agency may]~~ *An agency shall* coordinate all its debt collection efforts through the State Controller.

3. Unless an agency and the State Controller agree on a different time, an agency shall assign a debt to the State Controller for collection not later than 60 days after the debt becomes past due.

4. An agency shall not assign a debt to the State Controller for collection if the debt is administratively contested by the debtor. For the purposes of this subsection, a debt is not administratively contested if:

(a) The debtor and the agency have agreed on the existence and amount of the debt;

(b) The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures prescribed by the agency; or

(c) The debtor has timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.

5. Upon the request of an agency, the State Controller shall waive a requirement of this section:

(a) If the State Controller determines that the agency has the resources to engage in its own debt collection efforts; or

(b) For good cause shown.

6. If the State Controller waives the requirements of subsection 1 or 2 for an agency, the agency may exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect a debt.

7. An agency that is authorized by specific statute to collect a debt on behalf of or in trust for a particular person or entity may assign the debt to the State Controller for collection pursuant to this section. If such an agency does not assign a debt to the State Controller pursuant to this section, the agency may, in addition to any right or remedy conferred on the agency by specific statute to collect a debt, exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect the debt.

Sec. 18. NRS 353C.200 is hereby amended to read as follows:

353C.200 1. Except as otherwise provided in subsection 2, *if* an agency *has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller* may enter into a contract with a private debt collector or any other person for the assignment of the collection of ~~[a]~~ *the* debt if the ~~[agency:]~~ *State Controller:*

(a) Determines the assignment is likely to generate more net revenue than equivalent efforts by the ~~[agency]~~ *State Controller* to collect the debt, including collection efforts pursuant to this chapter;

(b) Determines the assignment will not compromise future collections of state revenue; and

(c) Notifies the debtor in writing at his address of record that the debt will be turned over for private collection unless the ~~[debt is paid.]~~ *debtor:*

(1) Pays the debt in full; or

(2) Enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

2. ~~[An agency shall not enter into a contract with a private debt collector or any other person for the assignment of the collection of a debt if the debt has been contested by the debtor.~~

~~3.]~~ A contract for the assignment of the collection of a debt may provide for:

(a) Payment by the ~~[agency]~~ *State Controller* to the private debt collector or other person of the costs of collection and fees for collecting the debt; or

(b) Collection by the private debt collector or other person from the debtor of the costs of collection and fees for collecting the debt.

~~[4. Any contract entered into pursuant to this section is subject to approval by the Director of the Department of Administration and the State ontroller.]~~

Sec. 19. NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, ~~[an agency to which a debt is owed]~~ *the State Controller* may, in addition to any other remedy provided for in this chapter, give notice of the amount of ~~[the]~~ *a* debt *owed to this State* and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this State, who has in his possession or under his control any credits or other personal property belonging to the debtor ~~[,]~~ or who owes any debts to the debtor that remain unpaid. The notice and demand to transmit must be delivered personally or by certified or registered mail:

(a) Not later than 4 years after the debt became due; or

(b) Not later than 6 years after the last recording of an abstract of judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to NRS 353C.180.

2. If such notice is given to an officer or agency of this State, the notice must be delivered before the ~~[agency which sent the notice]~~ *State Controller* may file a claim ~~[with the State Controller]~~ pursuant to NRS 353C.190 on behalf of the debtor.

3. An agency that receives a notice and demand to transmit pursuant to this section may satisfy any debt owed to it by the debtor before it honors the notice and demand to transmit. If the agency is holding a bond or other property of the debtor as security for debts owed or that may become due and owing by the debtor, the agency is not required to transmit the amount of the bond or other property unless the agency determines that holding the bond or other property of the debtor as security is no longer required.

4. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall not thereafter transfer or otherwise dispose of the credits or other personal property of, or debts owed to, the person who is the subject of the demand to transmit without the consent of the ~~[agency which sent the demand to transmit.]~~ *State Controller*.

5. Except as otherwise provided by specific statute, a person who receives ~~[from an agency]~~ a demand to transmit pursuant to this section shall, within 10 days thereafter, inform the ~~[agency]~~ *State Controller* of, and transmit to the ~~[agency]~~ *State Controller* within the time and in the manner requested by the ~~[agency,]~~ *State Controller*, all credits or other personal

property in his possession or control that belong to, and all debts that he owes to, the person who is the subject of the demand to transmit. Except as otherwise provided in subsection 6, no further notice is required to be served on such persons.

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the ~~[agency which sent the demand to transmit]~~ *State Controller* until otherwise notified by the ~~[agency.]~~ *State Controller*. If the debt of the debtor is not paid within 1 year after the date on which the ~~[agency]~~ *State Controller* issued the original demand to transmit, the ~~[agency]~~ *State Controller* shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs him to continue transmitting payments to the ~~[agency;]~~ *State Controller;* or

(b) Notify the person that his duty to transmit the payments to the ~~[agency]~~ *State Controller* has ceased.

7. If the notice and demand to transmit is intended to prevent the transfer or other disposition of a deposit in a bank or other depository institution, or of any other credit or personal property in the possession or under the control of the bank or depository institution, the notice must be delivered or mailed to any branch or office of the bank or depository institution at which the deposit is carried or the credit or personal property is held.

8. If any person to whom ~~[an agency]~~ *the State Controller* delivers a notice and demand to transmit transfers or otherwise disposes of any property or debts required by this chapter to be transmitted to the ~~[agency,]~~ *State Controller*, the person is, to the extent of the value of the property or the amount of the debts so transferred or disposed of, liable to the ~~[agency]~~ *State Controller* for any portion of the debt that the ~~[agency]~~ *State Controller* is unable to collect from the debtor solely by reason of the transfer or other disposition of the property or debt.

9. A debtor who owes a debt to an agency *for* which *the State Controller* delivers a notice and demand to transmit concerning the debtor pursuant to this section is entitled to an administrative hearing before that agency to challenge the collection of the debt pursuant to the demand to transmit. Each agency may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.

Sec. 20. NRS 353C.220 is hereby amended to read as follows:

353C.220 1. If ~~[an agency]~~ *the State Controller* determines that it is impossible or impractical to collect a debt, ~~[the agency]~~ *he* may request the State Board of Examiners to designate the debt as a bad debt. The State Board of Examiners, by an affirmative vote of the majority of the members of the Board, may designate the debt as a bad debt if the Board is satisfied that the collection of the debt is impossible or impractical. If the debt is not more than $50, the State Board of Examiners may delegate to its Clerk the authority to designate the debt as a bad debt. ~~[An agency that is aggrieved~~

~~by]~~ *The State Controller may appeal* a denial of a request to designate the debt as a bad debt by the Clerk ~~[may appeal that denial]~~ to the State Board of Examiners.

2. Upon the designation of a debt as a bad debt pursuant to this section, the State Board of Examiners or its Clerk shall immediately notify the State Controller thereof. Upon receiving the notification, the State Controller shall direct the removal of the debt from the books of account of the State of Nevada. A bad debt that is removed pursuant to this section remains a legal and binding obligation owed by the debtor to the State of Nevada.

3. ~~[If resources are available, the]~~ *The* State Controller shall keep a master file of all debts that are designated as bad debts pursuant to this section. ~~[If such a file is established and maintained, for]~~ *For* each such debt, the State Controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was removed from the records and books of account of ~~[the agency or]~~ the State of Nevada, and any other information concerning the debt that the State Controller determines is necessary.

Sec. 21. ~~[NRS 11.255 is hereby amended to read as follows:~~

~~11.255 1. [The] *Except as otherwise provided in subsection 2, the* provisions of this chapter [concerning actions other than for the recovery of real property shall] *do not* apply to actions *which accrue on or after the effective date of this act that are* brought in the name of the State [,] or for the benefit of the State . [, in the same manner as to actions by private individuals.]~~

~~2. [Except as provided in] *The provisions of* NRS 11.030 and 11.040 [, here shall be no limitation of] *apply to* actions brought in the name of the State, or for the benefit of the State, for the recovery of real property.]~~ *(Deleted by amendment.)*

Sec. 21.1. *NRS 218.6827 is hereby amended to read as follows:*

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, *and section 7.3 of this act*, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 21.3. NRS 616C.220 is hereby amended to read as follows:

616C.220 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➥ to administer claims against the uninsured employers' claim account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the uninsured employers' claim account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He suffers an accident or injury which arises out of and in the course of his employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the injured employee pursuant to NRS 616C.215.

➥ An employee who suffers an accident or injury while on temporary assignment outside the State is not eligible to receive compensation from the uninsured employers' claim account unless he has been denied workers' compensation in the state in which the accident or injury occurred.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory industrial insurance coverage for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS is liable for all payments made on his behalf, including any benefits, administrative costs

or attorney's fees paid from the uninsured employers' claim account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. *For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:*

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the employee's injury.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving notice of the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➥ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➥ the Division shall authorize payment from the uninsured employers' claim account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination

is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to chapters 616A to 616D, inclusive, of NRS, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➥ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than $10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 21.7. NRS 617.401 is hereby amended to read as follows:

617.401 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➥ to administer claims against the Uninsured Employers' Claim Account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the Uninsured Employers' Claim Account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He contracts an occupational disease that arose out of and in the course of employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the employee pursuant to NRS 616C.215.

➥ An employee who contracts an occupational disease that arose out of and in the course of employment while on temporary assignment outside the State is not entitled to receive compensation from the Uninsured Employers' Claim Account unless he has been denied workers' compensation in the state in which the disease was contracted.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory coverage for occupational diseases for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of this chapter is liable for all payments made on his behalf, including, but not limited to, any benefits, administrative costs or attorney's fees paid from the Uninsured Employers' Claim Account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. *For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:*

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the occupational disease.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➥ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➥ the Division shall authorize payment from the Uninsured Employers' Claim Account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to this chapter, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the Account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➥ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than $10,000

against an employer if the employer fails to provide mandatory coverage required by the provisions of this chapter.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 22. A regulation jointly adopted by the Director of the Department of Administration and the Attorney General pursuant to NRS 353C.110 remains in effect until it is amended or repealed by the State Controller pursuant to the amendatory provisions of this act.

Sec. 23. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2009, for all other purposes.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 661 to Assembly Bill No. 87 clarifies that a state agency's statutes governing the collection of debts apply to that agency until the debt is turned over to the Office of the State Controller for collection.

It changes, from $200 to $300, the amount of debt that triggers a debt collection fee.

It sets forth a debt collection fee of 2 percent of the amount of debt assigned to the State Controller to offset costs associated with the collection.

It creates the "Debt Recovery Account" and sets forth parameters for the use of money in that account.

It clarifies where the net amount of money owed to a state agency that is collected by the State Controller must be transferred including, under certain circumstances, to the newly-created "Debt Recovery Account," and it deletes language that would have reversed provisions governing the statutes of limitation for causes of actions brought in the name of the State or for the benefit of the State relating to the recovery of real property.

With regard to the transfer of money collected by the State Controller, money collected that is owed to a state agency whose budget is supported exclusively or in part from the State General Fund must be transferred to the "Debt Recovery Account." Conversely, money collected that is owed to a state agency whose budget is supported exclusively from sources other than the General Fund must be deposited in an account specified by the agency. Finally, if Nevada law provides that the money owed to the agency must be deposited in a specific account or used in a specific manner, that money must be deposited or used accordingly.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 89.

Bill read second time.

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

Amendment No. 659.

"SUMMARY—Revises provisions governing the regulation of licensed child care facilities. (BDR 38-334)"

"AN ACT relating to the protection of children; making various changes concerning the investigation of applicants for a license to operate a child care facility, licensees and others over whom applicants or licensees exercise some control; requiring applicants and licensees to terminate certain employees and remove certain residents and participants in outdoor youth programs who have been convicted of certain crimes or who have had a substantiated report of child abuse or neglect made against them; expanding the grounds for denying a license and for taking other disciplinary action against a licensee; authorizing the imposition of administrative fines for violations of certain laws and regulations concerning licensure of child care facilities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensure of certain child care facilities. (NRS 432A.131-432A.220) As part of the process for obtaining a license, the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services conducts a background check of each applicant for a license, licensee, employee of an applicant or licensee and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older. (NRS 432A.170, 432A.175) Section 5 of this bill expands the list of crimes that the Bureau must inquire about as part of such an investigation and requires the Bureau to request information concerning every applicant, licensee, employee, resident or participant from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child to determine whether there has been a substantiated report of child abuse or neglect made against any of those persons. (NRS 432A.170) Section 6 of this bill requires the Bureau to obtain permission from each such applicant, licensee, employee, resident or participant to obtain such information from the Statewide Central Registry. (NRS 432A.175) If an employee of an applicant or licensee, or a resident or participant, has been convicted of one of the crimes inquired about as part of the investigation, the Bureau is required to notify the applicant or licensee. Upon receiving such notice, section 2 of this bill requires the applicant or licensee to terminate the employment of the employee, remove the resident from the child care facility or remove the participant from the outdoor youth program, as applicable, after affording the person an opportunity to correct the information. Section 6 further requires an applicant or licensee to notify the Bureau when the applicant, licensee, employee, resident or participant is involved in certain legal proceedings or disciplinary hearings or charged with certain crimes. (NRS 432A.175)

Section 4 of this bill prohibits the Bureau from issuing a provisional license to operate a child care facility unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees to ensure that they have not been convicted of certain crimes or

had a substantiated report of child abuse or neglect made against them. (NRS 432A.160)

Section 7 of this bill expands the grounds for denial of an application for a license to operate a child care facility and for taking disciplinary action against a licensee and authorizes the Bureau to impose administrative fines for a violation of the statutes governing licensure of child care facilities or the regulations adopted pursuant thereto. (NRS 432A.190)

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.*

2. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, he must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, it is within the discretion of the applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the outdoor youth program, as applicable.

Sec. 3. *1. Each applicant for a license to operate a child care facility and licensee shall maintain records of the information concerning its employees and any residents of the child care facility or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:*

(a) ~~[A copy of the fingerprints submitted to the Central Repository for Nevada Records of Criminal History;~~

~~(b)]~~ Proof that the applicant or licensee submitted fingerprints to the Central Repository for its report; and

~~[(c)]~~ (b) The written authorization to obtain information from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 . ~~[; and~~

~~(d) Proof that the applicant or licensee requested information from the Statewide Central Registry.]~~

2. The records maintained pursuant to subsection 1 must be made available for inspection by the Bureau at any reasonable time, and copies thereof must be furnished to the Bureau upon request.

Sec. 4. NRS 432A.160 is hereby amended to read as follows:

432A.160 1. ~~[The]~~ *Except as otherwise provided in this section, the* Bureau may issue a provisional license, effective for a period not exceeding 1 year, to a child care facility which:

(a) Is in operation at the time of adoption of standards and other regulations pursuant to the provisions of this chapter, if the Bureau determines that the facility requires a reasonable time under the particular circumstances, not to exceed 1 year from the date of the adoption, within which to comply with the standards and other regulations;

(b) Has failed to comply with the standards and other regulations, if the Bureau determines that the facility is in the process of making the necessary changes or has agreed to effect the changes within a reasonable time; or

(c) Is in the process of applying for a license, if the Bureau determines that the facility requires a reasonable time within which to comply with the standards and other regulations.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Bureau from refusing to renew or from revoking or suspending any license in any instance where the Bureau considers that action necessary for the health and safety of the occupants of any facility or the clients of any outdoor youth program.

3. A provisional license must not be issued pursuant to this section unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees pursuant to NRS 432A.170 to ensure that the applicant and each employee of the applicant, or every resident of the child care facility or participant in any outdoor youth program who is 18 years of age or older, has not been convicted of a crime listed in subsection 2 of NRS 432A.170 and has not had a substantiated report of child abuse or neglect made against him.

Sec. 5. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Bureau may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or his employees;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, to determine whether he has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency; ~~[or]~~

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS ~~[.]~~ *;*

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. *The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.*

4. The Bureau may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant or licensee, resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 6 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 6 years after the license is issued.

Sec. 6. NRS 432A.175 is hereby amended to read as follows:

432A.175 1. Every applicant ~~[,]~~ *for a license to operate a child care facility,* licensee and employee of *such* an applicant or licensee, and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Bureau, or to the person

or agency designated by the Bureau, *to enable the Bureau to conduct an investigation pursuant to NRS 432A.170,* a:

(a) Complete set of fingerprints and a written authorization for the Bureau or its designee to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; ~~[and]~~

(b) Written statement detailing any prior criminal convictions ~~[,~~ ~~to enable the Bureau to conduct an investigation pursuant to NRS 432A.170.]~~ *; and*

(c) Written authorization for the Bureau to obtain any information that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. If an employee of an applicant *for a license to operate a child care facility* or licensee, or ~~[such]~~ a resident *of a child care facility* or participant ~~[,]~~ *in an outdoor youth program who is 18 years of age or older,* has been convicted of any crime listed in subsection 2 of NRS 432A.170 ~~[,]~~ *or has had a substantiated report of child abuse or neglect filed against him,* the Bureau shall immediately notify the applicant or licensee ~~[.]~~ *, who shall then comply with the provisions of section 2 of this act.*

3. An applicant for a license to operate a child care facility or licensee shall notify the Bureau within 2 days after receiving notice that:

(a) The applicant, licensee or an employee of the applicant or licensee, or a resident of the child care facility or participant in an outdoor youth program who is 18 years of age or older, or a facility or program operated by the applicant or licensee, is the subject of a lawsuit or any disciplinary proceeding; or

(b) The applicant or licensee, an employee, a resident or participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

Sec. 7. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Bureau may deny an application for a license *to operate a child care facility* or may suspend or revoke ~~[any license issued under the provisions of this chapter]~~ *such a license* upon any of the following grounds:

(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.

(e) Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.

(f) Failure to comply with the provisions of NRS 432A.178.

(g) Substantiation of a report of child abuse or neglect made against the applicant or licensee.

(h) Conduct which is found to pose a threat to the health or welfare of a child or which demonstrates that the applicant or licensee is otherwise unfit to work with children.

(i) Violation by the applicant or licensee of the provisions of section 2 of this act by continuing to employ a person, allowing a resident to continue to reside in the child care facility or allowing a participant in an outdoor youth program to continue to participate in the program if the employee, or the resident or participant who is 18 years of age or older, has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him.

2. In addition to the provisions of subsection 1, the Bureau may revoke a license to operate a child care facility if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Bureau shall maintain a log of any complaints that it receives relating to activities for which the Bureau may revoke the license to operate a child care facility pursuant to subsection 2. The Bureau shall provide to a child care facility:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Bureau either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➥ The facility shall make the information available to the public pursuant to NRS 432A.178.

4. *In addition to any other disciplinary action, the Bureau may impose an administrative fine for a violation of any provision of this chapter or any regulation adopted pursuant thereto. The Bureau shall afford to any person so fined an opportunity for a hearing. Any money collected for the imposition of such a fine must be credited to the State General Fund.*

5. On or before February 1 of each odd-numbered year, the Bureau shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Bureau pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Bureau pursuant to subsection 2.

Sec. 8. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, *and sections 2 and 3 of this act* is guilty of a misdemeanor.

Sec. 9. The Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services is not required to obtain the information required pursuant to subsections 2 and 3 of section 5 of this act concerning a person who, on October 1, 2009, is a licensee, employee of a licensee, or resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older until 6 years after the license was issued or renewed, or from the date of employment of an employee, residency of a resident or participation of a participant.

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. 659 to Assembly Bill No. 89 deletes section 3, subsection 1(a), which required the retention of a copy of the fingerprints submitted to the Central Repository for Nevada Records of Criminal History, and deletes section 3, subsection 1(d), which requires the retention of proof that the applicant or licensee requested information from the Statewide Central Registry.

These provisions are no longer necessary because this bill prohibits the Bureau from issuing a provisional license to operate a child-care facility unless the Bureau has completed an investigation into the qualifications and backgrounds of the applicant and his employees to ensure they have not been convicted of certain crimes or had a subsequent report of abuse or neglect made against them.

Amendment adopted.

Bill ordered reprinted, reengrossed and 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 Senator Care.

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

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. 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.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 179.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 641.

"SUMMARY—Revises provisions governing postconviction genetic marker analysis. (BDR 14-869)"

"AN ACT relating to criminal procedure; authorizing certain persons convicted of a category A or B felony to petition the court for postconviction genetic marker analysis; providing the information that must be contained in a petition for such postconviction genetic marker analysis; revising the circumstances under which genetic marker analysis must be performed for those persons; requiring certain notices to be provided to the victims of the crimes allegedly committed by those persons; *providing for a person to proceed with a genetic marker analysis at his own expense if his petition for a postconviction genetic marker analysis is dismissed or denied;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a person convicted of a crime and sentenced to death may petition a court to conduct postconviction genetic marker analysis to prove a credible claim of innocence if the person meets certain requirements. For example, the person must show that the evidence has not previously been submitted to such analysis or that the method of analysis requested and the additional analysis may resolve an issue not resolved by previous analysis. (NRS 176.0918)

Section ~~[1]~~ *3* of this bill amends existing law to allow any person who is convicted of a category A or B felony and under a sentence of imprisonment, regardless of whether he is under a sentence of death, to petition the court for postconviction genetic marker analysis after meeting certain other requirements. This section provides that a petition must be made under penalty of perjury and must contain certain information. Further, this section provides for the court to determine whether to dismiss the petition, schedule

a hearing or assign counsel to further review, supplement and present the petition to the court. This section also amends existing law to provide that genetic marker analysis may be performed on evidence previously submitted to analysis if: (1) the results of a previous analysis were inconclusive; (2) the evidence was not previously submitted to the type of analysis requested and the requested analysis may resolve an issue not resolved by the previous analysis; or (3) the requested analysis would provide results significantly more accurate and probative of the identity of the perpetrator. This section further requires the district attorney of the appropriate county, under certain circumstances, to notify the victims of the crime at issue in the petition of certain information related to the petition. (NRS 176.0918)

Section 1 of this bill provides a process for a person who files a petition for postconviction genetic marker analysis and whose petition is dismissed or denied to proceed with a genetic marker analysis of his biological specimen at his own expense. This section requires the petitioner to file a notice with the court that he is proceeding with a genetic marker analysis, to pay the costs of the analysis, and to follow the same procedures for testing the biological specimen and submitting the reports and results of the analysis as if the analysis had been ordered by the court. This section also provides that if the result of the analysis is favorable to the petitioner, he may bring a motion for a new trial.

Section ~~[3]~~ *6* of this bill provides that the new procedures set forth in the bill apply to persons who were convicted of an offense before, 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. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a petition filed pursuant to NRS 176.0918 is dismissed or a genetic marker analysis is not ordered by the court, the petitioner may file a notice with the court that the petitioner is proceeding with a genetic marker analysis of his biological specimen at his own expense.

2. Such a notice must be filed with the clerk of the court that reviewed the petition filed pursuant to NRS 176.0918 on a form prescribed by the Department of Corrections. A copy of the notice must be served by registered mail upon:

(a) The Attorney General; and

(b) The district attorney in the county in which the petitioner was convicted.

3. If a petitioner files notice with the court that he is proceeding with a genetic marker analysis of his biological specimen at his own expense, the court shall determine which person or agency has possession or custody of the evidence and shall immediately issue an order requiring each person or agency in possession or custody of the evidence to:

(a) Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section;

(b) Within 90 days, prepare an inventory of all evidence relevant to the claims in the notice within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section; and

(c) Within 90 days, submit a copy of the inventory to the petitioner, the prosecuting attorney and the court.

4. If the petitioner files notice with the court that he is proceeding with a genetic marker analysis at his own expense pursuant to subsection 1, the court shall:

(a) Order the analysis to be conducted promptly under reasonable conditions designed to protect the interest of the State and the petitioner in the integrity of the evidence and the analysis process.

(b) Select a forensic laboratory to conduct or oversee the analysis. The forensic laboratory selected by the court must:

(1) Be operated by this State or one of its political subdivisions, when possible; and

(2) Satisfy the standards for quality assurance that are established for forensic laboratories by the Federal Bureau of Investigation.

(c) Order the forensic laboratory selected pursuant to paragraph (b) to perform a genetic marker analysis of evidence. The analysis to be performed and evidence to be analyzed must:

(1) Be specified in the order; and

(2) Include such analysis, testing and comparison of genetic marker information contained in the evidence and the genetic marker information of the petitioner as the court determines appropriate under the circumstances.

(d) Order the production of any reports that are prepared by a forensic laboratory in connection with the analysis and any data and notes upon which the report is based.

(e) Order the preservation of evidence used in a genetic marker analysis performed pursuant to this section for purposes of a subsequent proceeding or analysis, if any.

(f) Order the results of the genetic marker analysis performed pursuant to this section to be sent to the State Board of Parole Commissioners if the results of the genetic marker analysis are not favorable to the petitioner.

5. If the results of a genetic marker analysis performed pursuant to this section are favorable to the petitioner:

(a) The petitioner may bring a motion for a new trial based on the ground of newly discovered evidence pursuant to NRS 176.515; and

(b) The restriction on the time for filing the motion set forth in subsection 3 of NRS 176.515 is not applicable.

6. For the purposes of a genetic marker analysis pursuant to this section, the petitioner who files a notice pursuant to this section shall be deemed to consent to the:

(a) Submission of a biological specimen by him to determine his genetic marker information; and

(b) Release and use of genetic marker information concerning the petitioner.

7. The remedy provided by this section is in addition to, is not a substitute for and is not exclusive of any other remedy, right of action or proceeding available to a person convicted of a crime.

8. The petitioner shall pay the cost of a genetic marker analysis performed pursuant to this section.

Sec. 2. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to ~~[176.0917,]~~ *176.0919,* inclusive, *and section 1 of this act,* unless the context otherwise requires, "CODIS" means the Combined DNA Indexing System operated by the Federal Bureau of Investigation.

~~[Section 1.]~~ *Sec. 3.* NRS 176.0918 is hereby amended to read as follows:

176.0918 1. A person convicted of a ~~[crime and under sentence of death]~~ *category A or B felony who is under sentence of imprisonment for that conviction and* who *otherwise* meets the requirements of this section may file a postconviction petition requesting a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the judgment of conviction . ~~[and sentence of death. The]~~ *If the case involves a sentence of death, the* petition must include, without limitation, the date scheduled for the execution, if it has been scheduled.

2. Such a petition must be filed with the clerk of the district court for the county in which the petitioner was convicted on a form prescribed by the Department of Corrections. A copy of the petition must be served by registered mail upon:

(a) The Attorney General; and

(b) The district attorney in the county in which the petitioner was convicted.

3. *A petition filed pursuant to this section must be accompanied by a declaration under penalty of perjury attesting that the information contained in the petition does not contain any material misrepresentation of fact and that the petitioner has a good faith basis relying on particular facts for the request. The petition must include, without limitation:*

(a) Information identifying specific evidence either known or believed to be in the possession or custody of the State that can be subject to genetic marker analysis;

(b) The rationale for why a reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been

obtained through a genetic marker analysis of the evidence identified in paragraph (a);

(c) An identification of the type of genetic marker analysis the petitioner is requesting to be conducted on the evidence identified in paragraph (a);

(d) If applicable, the results of all prior genetic marker analysis performed on evidence in the trial which resulted in the petitioner's conviction; and

(e) A statement that the type of genetic marker analysis the petitioner is requesting was not available at the time of trial or, if it was available, that the failure to request genetic marker analysis before the petitioner was convicted was not a result of a strategic or tactical decision as part of the representation of the petitioner at the trial.

4. If a petition is filed pursuant to this section, the court ~~[shall]~~ *may:*

(a) Dismiss the petition without a hearing if the court determines, based on the information contained in the petition, that the petitioner does not meet the requirements set forth in this section;

(b) After determining whether the petitioner is indigent pursuant to NRS 171.188 and whether counsel was appointed in the case which resulted in the conviction, appoint counsel for the limited purpose of reviewing, supplementing and presenting the petition to the court; or

(c) Schedule a hearing on the petition. If the court schedules a hearing on the petition, the court shall determine which person or agency has possession or custody of the evidence and shall immediately issue an order requiring, during the pendency of the proceeding, each person or agency in possession or custody of the evidence to:

~~[(a)]~~ *(1)* Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section;

~~[(b)]~~ *(2)* Within ~~[30]~~ *90* days, prepare an inventory of all evidence *relevant to the claims in the petition* within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section; and

~~[(c)]~~ *(3)* Within ~~[30]~~ *90* days, submit a copy of the inventory to the petitioner, the prosecuting attorney and the court.

~~[4.]~~ *5.* Within ~~[30]~~ *90* days after the inventory of all evidence is prepared pursuant to subsection ~~[3,]~~ *4,* the prosecuting attorney may file a written response to the petition with the court.

~~[5. The]~~

6. If the court ~~[shall hold]~~ *holds* a hearing on a petition filed pursuant to this section ~~[.~~

~~6.]~~ *, the hearing must be presided over by the judge who conducted the trial that resulted in the conviction of the petitioner, unless that judge is unavailable. Any evidence presented at the hearing by affidavit must be served on the opposing party at least 15 days before the hearing.*

7. The court shall order a genetic marker analysis *, after considering the information contained in the petition pursuant to subsection 3 and any other evidence,* if the court finds that:

(a) A reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in the petition;

(b) The evidence to be analyzed exists; and

(c) ~~[The]~~ *Except as otherwise provided in subsection 8, the* evidence was not previously subjected to ~~[~~*a* genetic marker analysis . ~~[involving the petitioner; or~~

~~(2) The method of analysis requested in the petition, and the method of additional analysis may resolve an issue not resolved by a previous analysis.]~~

~~[7.]~~ *8. If the evidence was previously subjected to a genetic marker analysis, the court shall order a genetic marker analysis pursuant to subsection 7 if the court finds that:*

(a) The result of the previous analysis was inconclusive;

(b) The evidence was not subjected to the type of analysis that is now requested and the requested analysis may resolve an issue not resolved by the previous analysis; or

(c) The requested analysis would provide results that are significantly more accurate and probative of the identity of the perpetrator than the previous analysis.

9. If the court orders a genetic marker analysis pursuant to subsection ~~[6,]~~ *7 or 8,* the court shall:

(a) Order the analysis to be conducted promptly under reasonable conditions designed to protect the interest of the State *and the petitioner* in the integrity of the evidence and the analysis process.

(b) Select a forensic laboratory to conduct or oversee the analysis. The forensic laboratory selected by the court must:

(1) Be operated by this State or one of its political subdivisions, when possible; and

(2) Satisfy the standards for quality assurance that are established for forensic laboratories by the Federal Bureau of Investigation.

(c) Order the forensic laboratory selected pursuant to paragraph (b) to perform a genetic marker analysis of evidence. The analysis to be performed and evidence to be analyzed must:

(1) Be specified in the order; and

(2) Include such analysis, testing and comparison of genetic marker information contained in the evidence and the genetic marker information of the petitioner as the court determines appropriate under the circumstances.

(d) Order the production of any reports that are prepared by a forensic laboratory in connection with the analysis and any data and notes upon which the report is based.

(e) Order the preservation of evidence used in a genetic marker analysis performed pursuant to this section for purposes of a subsequent proceeding or analysis, if any.

(f) Order the results of the genetic marker analysis performed pursuant to this section to be sent to the State Board of Parole Commissioners if the results of the genetic marker analysis are not favorable to the petitioner.

~~[8.]~~ *10.* If the results of a genetic marker analysis performed pursuant to this section are favorable to the petitioner:

(a) The petitioner may bring a motion for a new trial based on the ground of newly discovered evidence pursuant to NRS 176.515; and

(b) The restriction on the time for filing the motion set forth in subsection 3 of NRS 176.515 is not applicable.

~~[9.]~~ *11.* The court shall dismiss a petition filed pursuant to this section if:

(a) The requirements for ordering a genetic marker analysis pursuant to this section are not satisfied; or

(b) The results of a genetic marker analysis performed pursuant to this section are not favorable to the petitioner.

~~[10.]~~ *12.* For the purposes of a genetic marker analysis pursuant to this section, a person ~~[under sentence of death]~~ who files a petition pursuant to this section shall be deemed to consent to the:

(a) Submission of a biological specimen by him to determine his genetic marker information; and

(b) Release and use of genetic marker information concerning the petitioner.

~~[11. The]~~

13. The petitioner shall pay the cost of a genetic marker analysis performed pursuant to this section, unless the petitioner is incarcerated at the time he files the petition, found to be indigent pursuant to NRS 171.188 and the results of the genetic marker analysis are favorable to the petitioner. If the petitioner is not required to pay the cost of the analysis pursuant to this subsection, the expense of an analysis ordered pursuant to this section is a charge against the Department of Corrections and must be paid upon approval by the Board of State Prison Commissioners as other claims against the State are paid.

~~[12.]~~ *14.* The remedy provided by this section is in addition to, is not a substitute for and is not exclusive of any other remedy, right of action or proceeding available to a person convicted of a crime . ~~[and under sentence of death.]~~

15. If a petitioner files a petition pursuant to this section, the court schedules a hearing on the petition and a victim of the crime for which the petitioner was convicted has requested notice pursuant to NRS 178.5698, the district attorney in the county in which the petitioner was convicted shall provide to the victim notice of:

(a) The fact that the petitioner filed a petition pursuant to this section;

(b) The time and place of the hearing scheduled by the court as a result of the petition; and

(c) The outcome of any hearing on the petition.

~~[Sec. 2.]~~ *Sec. 4.* NRS 176.0919 is hereby amended to read as follows:

176.0919 1. After a judge grants a petition requesting a genetic marker analysis pursuant to NRS 176.0918, *or if a petitioner files notice to proceed with a genetic marker analysis pursuant to section 1 of this act,* if *the case involves a sentence of death and* a judge determines that the genetic marker analysis cannot be completed before the date of the execution of the petitioner, the judge shall stay the execution of the judgment of death pending the results of the analysis.

2. If *the case involves a sentence of death and* the results of an analysis ordered ~~[and]~~ *or* conducted pursuant to NRS 176.0918 *or section 1 of this act* are not favorable to the petitioner:

(a) Except as otherwise provided in paragraph (b), the Director of the Department of Corrections shall, in due course, execute the judgment of death.

(b) If the judgment of death has been stayed pursuant to subsection 1, the judge shall cause a certified copy of his order staying the execution of the judgment and a certified copy of the report of genetic marker analysis that indicates results which are not favorable to the petitioner to be immediately forwarded by the clerk of the court to the district attorney. Upon receipt, the district attorney shall pursue the issuance of a new warrant of execution of the judgment of death in the manner provided in NRS 176.495.

Sec. 5. NRS 176.515 is hereby amended to read as follows:

176.515 1. The court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.

2. If trial was by the court without a jury the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.

3. Except as otherwise provided in NRS 176.0918 ~~[,]~~ *or section 1 of this act,* a motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.

4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the court may fix during the 7-day period.

~~[Sec. 3.]~~ *Sec. 6.* This act applies to a person who was convicted of an offense before, on or after October 1, 2009.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care and Amodei.

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

SENATOR CARE:

Thank you, Mr. President. The members of the body may have received several emails on this bill and the proposed amendment. The sponsor of the bill never did agree to the terms contained in the amendment and did not request the amendment. Therefore, to respect the sponsor of the bill I am encouraging the body to vote against the motion to adopt the amendment despite what the emails said.

SENATOR AMODEI:

Thank you, Mr. President. I plan to accede to the wishes of the Chair of the Judiciary Committee. However, the record should reflect that there was only one vote in committee against adopting this amendment.

Motion lost.

Bill ordered to third reading.

Assembly Bill No. 199.

Bill read second time and ordered to third reading.

Assembly Bill No. 208.

Bill read second time and ordered to third reading.

Assembly Bill No. 220.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 653.

"SUMMARY—Makes various changes regarding the purchase of property for school construction. (BDR 22-551)"

"AN ACT relating to the subdivision of land; revising the requirements for the purchase of property for school construction; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth a multistep process for obtaining approval for the subdivision of land. (NRS 278.320-278.460) One of the preliminary requirements is a determination of the need for a school in the area in which the subdivision is located. (NRS 278.330) If a school is needed, the subdivider is required to make suitable land within the proposed subdivision available for purchase by the school district at a price which does not exceed the fair market value of the land. Under existing law, if the school district does not construct a school on the land within 10 years from the date of purchase, the land must be offered for resale back to the subdivider or his successor in interest. (NRS 278.346)

This bill provides that, in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the school district and subdivider may negotiate a purchase price which is the lesser of: (1) the fair arket value of the land on the date of purchase; or (2) the fair market value of the land at the time the tentative subdivision map was approved plus the costs of certain expenses paid by the subdivider. This bill also provides that, in such a county, if the purchase is not completed within 5 years after the

final map that shows the school site is approved, the subdivider need not continue to set aside the land for the school district. This bill further requires a school district in such a county *that purchased land for a school site* to offer the land back to the subdivider or successor in interest if construction on a school has not begun at the site within ~~[5]~~ *10* years from the date ~~[of purchase unless the school district has requested an exemption from the planning commission to delay construction of the school for up to another 5 years. This bill sets forth the circumstances under which the school district may apply for such an exemption.]~~ *on which the final map that shows the school site was approved.*

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

Section 1. NRS 278.346 is hereby amended to read as follows:

278.346 1. The planning commission or its designated representative ~~[,]~~ or, if there is no planning commission, the clerk or other designated representative of the governing body shall *, not more than 10 days after the tentative map is filed pursuant to the provisions of subsection 2 of NRS 278.330,* forward a copy of the tentative map to the board of trustees of the school district within which the proposed subdivision is located. Within 15 days after receipt of the copy, the board of trustees *or its designee* shall, if a school site is needed within the area, notify the commission or governing body that a site is requested.

2. If the board of trustees requests a site ~~[, the person proposing the subdivision]~~ *:*

(a) The subdivider shall *, except as otherwise provided in subsection 8,* set aside a site of the size which is determined by the board. ~~[The person proposing the subdivision]~~

(b) The subdivider and the board of trustees shall *, except as otherwise provided in subsections 7 and 8,* negotiate for the price of the site, which must not exceed the fair market value of the land as determined by an independent appraisal paid for by the board.

3. If any land purchased by ~~[a]~~ *the* school district pursuant to the provisions of ~~[this subsection have]~~ *subsection 2 has* not been placed in use as a school site at the end of 10 years from the date of purchase, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value ~~[. If such person]~~ *of the land at the time ~~[such determination is made,]~~ of the offer, as determined by an independent appraisal paid for by the board.*

4. If the subdivider or his successor in interest does not accept ~~[the offer,]~~ *an offer made pursuant to the provisions of subsection 3 or 9,* then the board of trustees may:

(a) Sell or lease such property in the manner provided in NRS 277.050 or 393.220 to 393.320, inclusive;

(b) Exchange such property in the manner provided in NRS 277.050 or 393.326 to 393.3293, inclusive; or

(c) Retain such property, if such retention is determined to be in the best interests of the school district.

~~[3.]~~ *5.* Except as *otherwise* provided in subsection ~~[4,]~~ *6,* when any land dedicated to the use of the public school system or any land purchased and used as a school site becomes unsuitable, undesirable or impractical for any school uses or purposes, the board of trustees of the county school district in which the land is located shall dispose of the land as provided in subsection ~~[2.]~~ *4.*

~~[4.]~~ *6.* Land dedicated under the provisions of former NRS 116.020, as it read before April 6, 1961, which the board of trustees determines is unsuitable, undesirable or impractical for school purposes may be reconveyed without cost to the dedicator or his successor or successors in interest.

7. Except as otherwise provided in subsection 8, in a county whose population is 100,000 or more but less than 400,000, the school district may purchase the site for a price negotiated between the subdivider and the board of trustees, which price must not exceed the lesser of:

(a) The fair market value of the land at the time the tentative map was approved, as determined by an independent appraisal paid for by the board, plus any costs paid by the subdivider with respect to that land between the date the tentative map was approved and the date of purchase; or

(b) The fair market value of the land on the date of purchase, as determined by an independent appraisal paid for by the board.

8. If, 5 years after the date on which the final map that contains the school site was approved, a school district has not purchased the site pursuant to the provisions of subsection 7, the subdivider need not continue to set aside the site pursuant to the provisions of subsection 2.

9. ~~*[Except as otherwise provided in subsection 10, if, 5]*~~ *If, 10 years after the date* ~~*[of purchase of a school site pursuant to subsection 7,]*~~ *on which the final map that contains the school site was approved, construction of a school at the school site has not yet begun, the land purchased by the school district pursuant to subsection 7 must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time* ~~*[such determination is made,]*~~ *of the offer, as determined by an independent appraisal paid for by the board.*

~~*[10. The school district may apply to the planning commission for an extension of not more than 5 years to the limitation set forth in subsection 9 for the construction of a school at the school site. To apply for an extension pursuant to this subsection, the school district must demonstrate the existence of extenuating circumstances which have caused the delay in beginning the construction of the school. The planning commission must consider an application for an extension requested pursuant to this subsection at a public hearing. As used in this subsection "extenuating circumstances" may include, without limitation:*~~

~~*(a) Changes in the demand for a school site due to changes in relevant demographics.*~~

~~*(b) Delays or other significant changes in the construction of the proposed subdivision.*~~

~~*(c) A temporary lack of funds available to the school district to construct the school.*~~

~~*(d) Any other issue or problem related to the construction of the school that could not have been reasonably anticipated by the school district at the time the school site was purchased, including, without limitation, environmental issues at the school site and the unavailability of building materials.*~~

~~*11. If a school district receives an extension pursuant to subsection 10 and the school district does not begin construction of a school at the school site before the expiration of such extension, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time that the extension expires, as determined by an independent appraisal paid for by the board.]*~~

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee and Carlton.

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

SENATOR LEE:

Thank you, Mr. President. This provides a timeframe allowed for the school district to begin construction of a school in ten years, rather than five years, after the date of approval of the final map that contains the school site. After the ten years, the land must be offered up for sale. As part of this change, subsections 10 and 11 of section 1 have been deleted. Subsections 10 and 11 would have allowed the school district to apply to the planning commission for a construction extension under certain circumstances.

SENATOR CARLTON:

Thank you, Mr. President. My concern is we have seen bubbles in our "boom and bust" State come and go. If ten years after the date of approval the land is now less in value and it says they "shall offer it up" if they purchased it at one price and we make them sell it at a lower price is there any consideration on the difference of prices in this bill or is this simply donated land.

SENATOR LEE:

Thank you, Mr. President. This is specifically for Washoe County, and their situation is that if they identify a piece of property it goes on a tentative map. They ask to buy it from the owner at a certain price and have to build the school in a certain period of time. If they do not build the school in that period of time or it was decided that they do not need a school in that area, then, it must be offered up for sale. The sale price will be at the price of appraisal at that point in time. The original developer can buy the property back, or it can go on the auction block and anyone can buy it. If it has less value, once again, that law would kick in and it would go up for sale at whatever price was available ten years later.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 249.

Bill read second time.

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

Amendment No. 700.

"SUMMARY—Revises provisions governing the abatement of certain nuisances and the protection of public health and safety. (BDR 40-1043)"

"AN ACT relating to public health; authorizing a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or their breeding places to take certain actions to abate the nuisance; authorizing a district health officer to order an owner of real property to abate and prevent the recurrence of such a nuisance; providing that all money expended by the health district in abating and preventing the recurrence of such a nuisance constitutes a lien upon the property; authorizing the health district to bring an action to foreclose the lien; providing a district board of health with certain authority relating to the protection of the public health and safety with respect to *residential property,* rental dwelling units [.] *and commercial property;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1.5 of this bill provides that the provisions of sections 1.5-4.5 of this bill apply to any health district created pursuant to NRS 439.362 or 439.370 (currently the Southern Nevada Health District in Clark County and the Washoe County Health District). Existing law authorizes health officers in this State to order the abatement or removal of any nuisance detrimental to the public health. (NRS 439.490) Section 2 of this bill provides that a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take certain actions to abate the nuisance. Section 3 of this bill authorizes the district health officer to order the owner of any real property to abate and prevent the recurrence of such a nuisance. The health officer is required to provide notice of the order to the owner by mail addressed to the last known address of the owner. Section 3 provides that if the owner does not abate the nuisance within the period specified in the order, the health district is required to abate the nuisance and take any action necessary to prevent its recurrence. Section 4 of this bill provides that all money expended by the health district in abating the nuisance and preventing its recurrence constitutes a lien upon the real property which may be recovered in an action against the property.

Existing law provides that a district board of health may, by affirmative vote of a majority of its members, adopt certain regulations which take effect immediately upon approval of the regulations by the State Board of Health. (NRS 439.366) Section 4.5 of this bill specifically authorizes a district board of health to adopt regulations relating to any health hazard *or safety hazard* on residential property , [or] any health hazard *or safety hazard* in a rental dwelling unit [.] *or any health hazard on commercial property. Section 4.5 requires the regulations relating to safety hazards on residential property*

and rental dwelling units to provide for a program for swimming pool safety. Section 4.5 also authorizes a district board of health to adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of *residential property,* rental dwelling units ~~[.]~~ *and commercial property.* In addition, section 4.5 authorizes a district board of health, in carrying out its duties relating to the protection of the public health and safety associated with the condition of *residential property,* rental dwelling units ~~[,]~~ *and commercial property,* to take any enforcement action it determines necessary and to establish an administrative hearing process.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 4.5, inclusive, of this act.

Sec. 1.5. *The provisions of sections 1.5 to 4.5, inclusive, of this act apply to any health district created pursuant to NRS 439.362 or 439.370.*

Sec. 2. *A district health officer or his designee who issues an order for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take any action necessary to abate the nuisance or prevent its recurrence, including, without limitation:*

1. Abate any stagnant pool of water or other breeding place for mosquitoes, flies, other insects or rats;

2. Treat with oil, other larvicidal material, other chemicals or other material any breeding place of mosquitoes, flies, other insects or rats;

3. Build, construct, repair and maintain necessary dikes, levees, cuts, canals or ditches upon any land, and acquire by purchase, condemnation or other lawful means, in the name of the health district, any land, right-of-way, easement, property or material necessary for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof;

4. Enter into contracts to indemnify or compensate any owner of real or other property for any injury or damage caused by the use or taking of property for dikes, levees, cuts, canals or ditches;

5. Enter upon without hindrance any land, within or without the health district, to determine whether breeding places of mosquitoes, flies, other insects or rats exist upon that land; and

6. Determine whether any person subject to an order issued pursuant to section 3 of this act has complied with the order.

Sec. 3. *1. A district health officer may issue an order requiring an owner of real property to abate and prevent the recurrence of any mosquitoes, flies, other insects, rats or any breeding place thereof by providing notice of the order to the owner by mail addressed to the last known address of the owner. The order must:*

(a) Provide that the owner shall abate the nuisance and prevent its recurrence; and

(b) Specify the period within which the abatement must be completed.

2. If the owner of the real property does not comply with the order within the time specified, the health district shall abate the nuisance and take all necessary steps to prevent its recurrence.

Sec. 4. *1. All money expended by a health district in abating a nuisance and preventing its recurrence on real property pursuant to section 3 of this act constitutes a lien upon the property and may be recovered by an action against the property.*

2. Notice of the lien must be filed and recorded by the health district in the office of the county recorder of the county in which the property is situated not later than 6 months after the date on which the health district completes the abatement.

3. Any action to foreclose the lien must be commenced not later than 6 months after the filing and recording of the notice of the lien.

4. An action commenced pursuant to subsection 3 must be brought by the health district in the name of the health district.

5. When the property is sold, enough of the proceeds to satisfy the lien and the costs of foreclosure must be paid to the health district and the surplus, if any, must be paid to the owner of the property if known, and if not known, must be paid into the court in which the lien was foreclosed for the use of the owner if ascertained.

Sec. 4.5. *1. In addition to any other powers, duties and authority conferred on a district board of health, the district board of health may by affirmative vote of a majority of all the members of the board adopt regulations consistent with law, which must take effect immediately on their approval by the State Board of Health, to:*

(a) Regulate any health hazard or safety hazard on residential property; ~~[and]~~

(b) Regulate any health hazard or safety hazard in a rental dwelling unit ~~[.]~~ ; and

(c) Regulate any health hazard on commercial property.

2. The district board of health may adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of rental dwelling units and to recover all costs incurred by the district board of health relating thereto. Any regulation adopted pursuant to this subsection must be provided by the landlord of a rental dwelling unit to a tenant upon request to ensure that the landlord and the tenant understand their respective rights and responsibilities clearly.

3. In carrying out its duties relating to the protection of the public health and safety associated with the condition of residential property and rental dwelling units, the district board of health shall adopt regulations establishing a program for swimming pool safety to reduce the number of children who drown in swimming pools. The regulations may include, without limitation:

(a) Provisions for the use of swimming pool alarms and barriers designed to prevent drowning by children;

(b) Provisions for providing and encouraging participation in instruction in swimming pool safety, swimming and drowning prevention for children;

(c) Voluntary inspections of swimming pools to assist persons in making swimming pools safe for children;

(d) A grant program for the collection of gifts, grants and donations to carry out the program for swimming pool safety and to distribute swimming pool alarms;

(e) Requirements for providing to persons who own or rent a residential property or rental dwelling unit which has a swimming pool information regarding the program for swimming pool safety; and

(f) Provisions for the dissemination of information to the public regarding the program for swimming pool safety, including, without limitation, through the use of public awareness and media campaigns.

4. In carrying out its duties relating to the protection of the public health and safety associated with the condition of rental dwelling units, the district board of health may:

(a) Take any enforcement action it determines necessary; and

(b) Establish an administrative hearing process, including, without limitation, the hiring of qualified hearing officers.

~~[4.]~~ 5. If a tenant of a rental dwelling unit provides written notice to the landlord pursuant to NRS 118A.355 specifying a failure by the landlord to maintain the dwelling unit in a habitable condition and requesting that the landlord remedy the failure and the landlord fails to remedy ~~[a material]~~ the failure or to make a reasonable effort to do so within the time prescribed in NRS 118A.355, the tenant may, in addition to any remedy provided in NRS 118A.355, provide to the district board of health a copy of the written notice that the tenant provided to the landlord. If, upon inspection of the dwelling unit, the district board of health determines that either the landlord or the tenant has failed to maintain the dwelling unit in a habitable condition, the district board of health may refer the matter to the administrative hearing process if established pursuant to subsection ~~[3]~~ 4 or take any action with respect to the dwelling unit which is authorized by this section or the regulations adopted pursuant thereto.

~~[5.]~~ 6. Before the adoption, amendment or repeal of a regulation, the district board of health must give at least 30 days' notice of its intended action. The notice must:

(a) Include a statement of either the terms or substance of the proposal or a description of the subjects and issues involved and of the time when, the place where and the manner in which interested persons may present their views thereon;

(b) State each address at which the text of the proposal may be inspected and copied; and

(c) Be mailed to all persons who have requested in writing that they be placed on a mailing list, which must be kept by the board for such purpose.

~~[6.]~~ 7. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing, on the intended action to adopt, amend or repeal the regulation. With respect to substantive regulations, the district board of health shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposal and requests an oral hearing, the district board of health may proceed immediately to act upon any written submissions. The district board of health shall consider fully all written and oral submissions respecting the proposal.

~~[7.]~~ 8. The district board of health shall file a copy of all of its adopted regulations with the county clerk.

~~[8.]~~ 9. As used in this section:

(a) "Barrier" means a fence, dwelling wall or nondwelling wall, or a combination thereof.

(b) "Commercial property" means any real property which is not used for a residential dwelling and is not occupied as, or designed or intended for occupancy as, a residence or sleeping place.

(c) "Dwelling unit" has the meaning ascribed to it in NRS 118A.080.

~~[(b)]~~ (d) "Health hazard" means any biological, physical or chemical exposure , ~~[or]~~ condition or public nuisance that may adversely affect the health of a person.

(e) "Safety hazard" means a public nuisance which may adversely affect the safety of a person, including, without limitation, swimming pools.

(f) "Swimming pool" means any permanent and in-ground structure that is outdoors, constructed to contain at least 18 inches of water and intended to be used by persons for swimming or bathing.

(g) "Swimming pool alarm" means a device placed in a swimming pool that is designed to detect accidental or unauthorized entrance into the swimming pool and sound an alarm upon such detection.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 439.490 is hereby amended to read as follows:

439.490 Every health officer ~~[shall have authority to]~~ *or his designee may* order the abatement or removal of any nuisance detrimental to the public health in accordance with the laws relating to such matters.

Sec. 8. This act becomes effective on July 1, 2009.

Senator Nolan moved that Senate Bill No. 249 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Assembly Bill No. 263.

Bill read second time.

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

Amendment No. 662.

"SUMMARY—Authorizes the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly. ~~[in certain counties.]~~ (BDR 38-509)"

"AN ACT relating to public health; authorizing the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly; ~~[in certain counties;]~~ authorizing the Division to adopt regulations to carry out the program; authorizing the Division to establish a schedule of fees for services provided under the program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Aging Services Division of the Department of Health and Human Services to establish and administer a program to provide the community-based services necessary to enable a frail elderly person to remain in his home and avoid placement in a facility for long-term care. (NRS 427A.250) Section 1 of this bill authorizes the Division to establish a community-based and in-home program of all-inclusive care for the elderly, commonly referred to as a PACE program, in accordance with the provisions of federal law authorizing such programs. (42 U.S.C. § 1396u-4; 42 C.F.R. Part 460) If the Division establishes a PACE program, the program ~~[must]~~ *may* be established in any county in this State. ~~[whose population is 100,000 or more but less than 400,000 (currently Washoe County).]~~ Section 1 authorizes the Division to adopt regulations necessary to establish and administer the program. Section 1 also requires the Director of the Department, if the Division wishes to establish a PACE program, to submit to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the PACE program and to revise the program from time to time.

Section 2 of this bill authorizes the Division to contract with public or private entities to carry out the PACE program. (NRS 427A.260) Section 3 of this bill authorizes the Division to apply for and accept any money available to establish and administer the program. Section 3 further authorizes the Division to establish a schedule of fees to be charged for the provision of services under the program. (NRS 427A.270)

Section 4 of this bill clarifies that the PACE program established pursuant to section 1 of this bill is in addition to any test program or demonstration program established by the Division concerning the various ways in which community-based services and all-inclusive care can be provided to frail elderly persons. (NRS 427A.280)

Section 7 of this bill requires the Division to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or the Legislative Committee on Health Care semiannual reports on the progress of the Division in establishing a PACE program.

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

Section 1. Chapter 427A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any program established pursuant to NRS 427A.250, the Division may establish and administer a program of all-inclusive care for the elderly, commonly known as a PACE program. The program may be carried out solely by the Division or in cooperation with another state agency, the Federal Government or any local government.

2. A program established pursuant to subsection 1 ~~[must:~~

~~(a) Comply]~~ :

(a) Must comply with the provisions of 42 U.S.C. § 1396u-4, 42 C.F.R. Part 460 and any other federal regulations governing programs of all-inclusive care for the elderly; and

(b) ~~[Be]~~ May be established in any county in this State . ~~[whose population is 100,000 or more but less than 400,000.]~~

3. The Division may adopt regulations necessary to establish and administer the program.

4. If the Division wishes to establish a program pursuant to subsection 1, the Director shall submit to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the program and to revise the program from time to time.

Sec. 2. NRS 427A.260 is hereby amended to read as follows:

427A.260 1. The Division may use personnel of the Division or it may contract with any appropriate public or private agency, organization or institution to provide *a program of all-inclusive care for the elderly and to provide* the community-based services necessary to enable a frail elderly person to remain in his home.

2. Any such contract must:

(a) Include a description of the type of service to be provided;

(b) ~~[Specify]~~ *For:*

(1) A program of all-inclusive care for the elderly, specify the capitation rate to be paid for all-inclusive care for the elderly and the method of payment; and

(2) Any other community-based services, specify the price to be paid for each service and the method of payment; and

(c) Specify the criteria to be used to evaluate the provision of the service.

Sec. 3. NRS 427A.270 is hereby amended to read as follows:

427A.270 1. The Division may apply for, accept and expend any federal or private grant of money or other type of assistance that becomes available to carry out the provisions of NRS 427A.250 to 427A.280, inclusive ~~[.]~~ *, and section 1 of this act.* Any money received pursuant to this section must be deposited with the State Treasurer and accounted for separately in the State General Fund.

2. The Division shall, with the approval of the Commission and Director, establish a schedule of fees to be charged and collected for any service

provided pursuant to NRS 427A.250 to 427A.280, inclusive ~~[.]~~ , *and section 1 of this act.*

Sec. 4. NRS 427A.280 is hereby amended to read as follows:

427A.280 ~~[The]~~ *In addition to the program established pursuant to section 1 of this act, the* Division may initiate projects to test and demonstrate various ways of providing the community-based services *and all-inclusive care* necessary to enable a frail elderly person to remain in his home.

Sec. 5. NRS 427A.310 is hereby amended to read as follows:

427A.310 1. Except as otherwise provided in subsection 2, the Ombudsman for Aging Persons shall provide assistance to persons who are 60 years of age or older and do not reside in facilities for long-term care. The assistance must include at least the:

(a) Coordination of resources and services available to aging persons within their respective communities, including the services provided through ~~[the]~~ *a* program established pursuant to NRS 427A.250 ~~[.]~~ *or section 1 of this act;*

(b) Dissemination of information to aging persons on issues of national and local interest, including information regarding the services of the Ombudsman and the existence of groups of aging persons with similar interests and concerns;

(c) Publication of a guide for use in each county of this State regarding the resources and services available for aging persons in the respective county; and

(d) Advocation of issues relating to aging persons.

2. Upon request by the Administrator, the Ombudsman for Aging Persons shall temporarily perform the duties of advocates for residents of facilities for long-term care specified in NRS 427A.125 to 427A.165, inclusive.

Sec. 6. NRS 123.259 is hereby amended to read as follows:

123.259 1. Except as otherwise provided in subsection 2, a court of competent jurisdiction may, upon a proper petition filed by a spouse or the guardian of a spouse, enter a decree dividing the income and resources of a husband and wife pursuant to this section if one spouse is an institutionalized spouse and the other spouse is a community spouse.

2. The court shall not enter such a decree if the division is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS.

3. Unless modified pursuant to subsection 4 or 5, the court may divide the income and resources:

(a) Equally between the spouses; or

(b) By protecting income for the community spouse through application of the maximum federal minimum monthly maintenance needs allowance set forth in 42 U.S.C. § 1396r-5(d)(3)(C) and by permitting a transfer of resources to the community spouse an amount which does not exceed the amount set forth in 42 U.S.C. § 1396r-5(f)(2)(A)(ii).

4. If either spouse establishes that the community spouse needs income greater than that otherwise provided under paragraph (b) of subsection 3, upon finding exceptional circumstances resulting in significant financial duress and setting forth in writing the reasons for that finding, the court may enter an order for support against the institutionalized spouse for the support of the community spouse in an amount adequate to provide such additional income as is necessary.

5. If either spouse establishes that a transfer of resources to the community spouse pursuant to paragraph (b) of subsection 3, in relation to the amount of income generated by such a transfer, is inadequate to raise the income of the community spouse to the amount allowed under paragraph (b) of subsection 3 or an order for support issued pursuant to subsection 4, the court may substitute an amount of resources adequate to provide income to fund the amount so allowed or to fund the order for support.

6. A copy of a petition for relief under subsection 4 or 5 and any court order issued pursuant to such a petition must be served on the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services when any application for medical assistance is made by or on behalf of an institutionalized spouse. ~~[He]~~ *The Administrator* may intervene no later than 45 days after receipt by the Division of Welfare and Supportive Services of the Department of Health and Human Services of an application for medical assistance and a copy of the petition and any order entered pursuant to subsection 4 or 5, and may move to modify the order.

7. A person may enter into a written agreement with his spouse dividing their community income, assets and obligations into equal shares of separate income, assets and obligations of the spouses. Such an agreement is effective only if one spouse is an institutionalized spouse and the other spouse is a community spouse or a division of the income or resources would allow one spouse to qualify for services under NRS 427A.250 to 427A.280, inclusive ~~[.]~~ *, and section 1 of this act.*

8. An agreement entered into or decree entered pursuant to this section may not be binding on the Division of Welfare and Supportive Services of the Department of Health and Human Services in making determinations under the State Plan for Medicaid.

9. As used in this section, "community spouse" and "institutionalized spouse" have the meanings respectively ascribed to them in 42 U.S.C. § 1396r-5(h).

Sec. 7. The Aging Services Division of the Department of Health and Human Services shall, on or before March 1 and October 1 of each year, submit a report on the progress of the Division in establishing a PACE program pursuant to section 1 of this act to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, the Legislative Committee on Health Care.

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. The amendment changes the requirement to establish the Program of All-Inclusive Care for the Elderly in Washoe County and instead authorizes any county in this State to establish such a program

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 267.

Bill read second time and ordered to third reading.

Assembly Bill No. 309.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 693.

"SUMMARY—Revises provisions relating to the crime of stalking. (BDR 15-994)"

"AN ACT relating to crimes; revising provisions relating to the crime of stalking; increasing the penalties for the crime of stalking; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the safety of a ~~[third person]~~ *member of the person's family or household* and which actually causes a victim to feel such fear. Section 1 also increases the penalty for a first offense for the crime of stalking from a misdemeanor to a gross misdemeanor and makes a subsequent offense a category D felony. Additionally, section 1 adds text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

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

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated , ~~[or]~~ harassed ~~[,]~~ *or fearful for the safety of a ~~[third person,]~~ member of the person's family or household,* and that actually causes the victim to feel terrorized, frightened, intimidated , ~~[or]~~ harassed ~~[,]~~ *or fearful for the safety of a ~~[third person,]~~ member of the victim's family or household,* commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a *gross* misdemeanor.

(b) For any subsequent offense, is guilty of a ~~[gross misdemeanor.]~~ *category D felony and shall be punished as provided in NRS 193.130.*

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site , ~~[or]~~ electronic mail , *text messaging* or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(c) "Network" has the meaning ascribed to it in NRS 205.4745.

(d) "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

(e) *"Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.*

(f) "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper,

periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site , ~~[or]~~ electronic mail , *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site , ~~[or]~~ electronic mail , *text messaging* or any other similar

means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Senator Care moved that Assembly Bill No. 309 be taken from the Second Reading File and placed on the Second Reading File on the second agenda.

Motion carried.

Assembly Bill No. 325.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 692.

"SUMMARY—Revises provisions relating to sex offenders. (BDR 14-1028)"

"AN ACT relating to sex offenders; prohibiting persons who are convicted of certain sexual offenses from having contact with a victim or witness; *revising provisions relating to the confidentiality of records and reports that reveal identity in cases involving certain offenses;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that if a person is convicted of certain sexual offenses and the court grants probation or suspends the sentence of the defendant, or if such a person is released on parole, that person must not have any contact with the victim or a witness who testified against him unless approved by a parole and probation officer. (NRS 176A.410, 213.1245) Sections 1 and 2.5 of this bill provide that such a person may not have any such contact unless approved in writing by the Chief Parole and Probation Officer or his designee. Section 2 of this bill similarly prohibits a sex offender under lifetime supervision from having any contact with a victim or a witness who testified against him unless approved in writing by the Chief. (NRS 213.1243)

Sections 1.1-1.5 of this bill expand the prohibition on the public disclosure of the identity of a victim of a sexual assault to include a victim of statutory sexual seduction or sexual conduct involving a pupil or student.

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

Section 1. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime.

(b) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the defendant.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The defendant keeps the parole and probation officer assigned to the defendant informed of his current address.

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant.

(e) Participate in and complete a program of professional counseling approved by the Division.

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance.

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant.

(h) Abstain from consuming, possessing or having under his control any alcohol.

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the ~~[parole and probation officer assigned to the defendant,]~~ *Chief Parole and Probation Officer or his designee* and a written agreement is entered into and signed in the manner set forth in subsection 5.

(j) Not use aliases or fictitious names.

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant.

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact.

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a defendant who is a Tier III offender.

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant.

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant.

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant.

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his

enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the defendant is a Tier III offender and the court grants probation or suspends the sentence of the defendant, the court shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The defendant;

(c) The parole and probation officer assigned to the defendant;

(d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; ~~[and]~~

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[.]~~ *; and*

(f) The Chief Parole and Probation Officer or his designee.

6. The court is not required to impose a condition of probation or suspension of sentence listed in subsections 1 and 2 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 1.1. NRS 200.364 is hereby amended to read as follows:

200.364 As used in NRS 200.364 to 200.3774, inclusive, unless the context otherwise requires:

1. *"Offense involving a pupil" means any of the following offenses:*

(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

2. "Perpetrator" means a person who commits a sexual ~~[assault.]~~ *offense or an offense involving a pupil.*

~~[2.]~~ *3. "Sexual offense" means any of the following offenses:*

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

4. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning.

~~[3.]~~ *5.* "Statutory sexual seduction" means:

(a) Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 years; or

(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.

~~[4.]~~ *6.* "Victim" means a person who is ~~[subjected to]~~ a *victim of a* sexual ~~[assault.]~~ *offense or an offense involving a pupil.*

Sec. 1.2. NRS 200.377 is hereby amended to read as follows:

200.377 The Legislature finds and declares that:

1. This State has a compelling interest in assuring that the victim of a sexual ~~[assault:]~~ *offense or an offense involving a pupil:*

(a) Reports the ~~[assault]~~ *sexual offense or offense involving a pupil* to the appropriate authorities;

(b) Cooperates in the investigation and prosecution of the ~~[assault;]~~ *sexual offense or offense involving a pupil;* and

(c) Testifies at the criminal trial of the person charged with committing the ~~[assault.]~~ *sexual offense or offense involving a pupil.*

2. The fear of public identification and invasion of privacy are fundamental concerns for the victims of sexual ~~[assault.]~~ *offenses or offenses involving a pupil.* If these concerns are not addressed and the victims are left unprotected, the victims may refrain from reporting and prosecuting sexual ~~[assaults.]~~ *offenses or offenses involving a pupil.*

3. A victim of a sexual ~~[assault]~~ *offense or an offense involving a pupil* may be harassed, intimidated and psychologically harmed by a public report that identifies the victim. A sexual ~~[assault]~~ *offense or an offense involving a pupil* is, in many ways, a unique, distinctive and intrusive personal trauma. The consequences of identification are often additional psychological trauma and the public disclosure of private personal experiences.

4. Recent public criminal trials have focused attention on these issues and have dramatized the need for basic protections for the victims of sexual ~~[assault.]~~ *offenses or offenses involving a pupil.*

5. The public has no overriding need to know the individual identity of the victim of a sexual ~~[assault.]~~ *offense or an offense involving a pupil.*

6. The purpose of NRS 200.3771 to 200.3774, inclusive, is to protect the victims of sexual ~~[assault]~~ *offenses and offenses involving a pupil* from harassment, intimidation, psychological trauma and the unwarranted invasion of their privacy by prohibiting the disclosure of their identities to the public.

Sec. 1.3. NRS 200.3771 is hereby amended to read as follows:

200.3771 1. Except as otherwise provided in this section, any information which is contained in:

(a) Court records, including testimony from witnesses;

(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History,

➥ that reveals the identity of a victim of *a* sexual ~~[assault]~~ *offense or an offense involving a pupil* is confidential, including but not limited to the victim's photograph, likeness, name, address or telephone number.

2. A defendant charged with a sexual ~~[assault]~~ *offense or an offense involving a pupil* and his attorney are entitled to all identifying information concerning the victim in order to prepare the defense of the defendant. The defendant and his attorney shall not disclose this information except, as necessary, to those persons directly involved in the preparation of the defense.

3. A court of competent jurisdiction may authorize the release of the identifying information, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the disclosure;

(b) The disclosure will not place the victim at risk of personal harm; and

(c) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

4. Nothing in this section prohibits:

(a) Any publication or broadcast by the media concerning a sexual ~~[assault.]~~ *offense or an offense involving a pupil.*

(b) The disclosure of identifying information to any nonprofit organization or public agency whose purpose is to provide counseling, services for the management of crises or other assistance to the victims of crimes if:

(1) The organization or agency needs identifying information of victims to offer such services; and

(2) The court or a law enforcement agency approves the organization or agency for the receipt of the identifying information.

5. The willful violation of any provision of this section or the willful neglect or refusal to obey any court order made pursuant thereto is punishable as criminal contempt.

Sec. 1.4. NRS 200.3772 is hereby amended to read as follows:

200.3772 1. A victim of a sexual ~~[assault]~~ *offense or an offense involving a pupil* may choose a pseudonym to be used instead of the victim's name on all files, records and documents pertaining to the sexual ~~[assault,]~~ *offense or offense involving a pupil,* including, without limitation, criminal intelligence and investigative reports, court records and media releases.

2. A victim who chooses to use a pseudonym shall file a form to choose a pseudonym with the law enforcement agency investigating the *sexual* offense ~~[.]~~ *or offense involving a pupil.* The form must be provided by the law enforcement agency.

3. If the victim files a form to use a pseudonym, as soon as practicable the law enforcement agency shall make a good faith effort to:

(a) Substitute the pseudonym for the name of the victim on all reports, files and records in the agency's possession; and

(b) Notify the prosecuting attorney of the pseudonym.

➥ The law enforcement agency shall maintain the form in a manner that protects the confidentiality of the information contained therein.

4. Upon notification that a victim has elected to be designated by a pseudonym, the court shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the sexual ~~[assault.]~~ *offense or offense involving a pupil.*

5. The information contained on the form to choose a pseudonym concerning the actual identity of the victim is confidential and must not be disclosed to any person other than the defendant or his attorney unless a court of competent jurisdiction orders the disclosure of the information. The

disclosure of information to a defendant or his attorney is subject to the conditions and restrictions specified in subsection 2 of NRS 200.3771. A person who violates this subsection is guilty of a misdemeanor.

6. A court of competent jurisdiction may order the disclosure of the information contained on the form only if it finds that the information is essential in the trial of the defendant accused of the sexual ~~[assault]~~ *offense or offense involving a pupil* or the identity of the victim is at issue.

7. A law enforcement agency that complies with the requirements of this section is immune from civil liability for unknowingly or unintentionally:

(a) Disclosing any information contained on the form filed by a victim ~~[of sexual assault]~~ pursuant to this section that reveals the identity of the victim; or

(b) Failing to substitute the pseudonym of the victim for the name of the victim on all reports, files and records in the agency's possession.

Sec. 1.5. NRS 200.3773 is hereby amended to read as follows:

200.3773 1. A public officer or employee who has access to any records, files or other documents which include the photograph, likeness, name, address, telephone number or other fact or information that reveals the identity of a victim of a sexual ~~[assault]~~ *offense or an offense involving a pupil* shall not intentionally or knowingly disclose the identifying information to any person other than:

(a) The defendant or his attorney;

(b) A person who is directly involved in the investigation, prosecution or defense of the case;

(c) A person specifically named in a court order issued pursuant to NRS 200.3771; or

(d) A nonprofit organization or public agency approved to receive the information pursuant to NRS 200.3771.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 1.6. NRS 200.3774 is hereby amended to read as follows:

200.3774 The provisions of NRS 200.3771, 200.3772 and 200.3773 do not apply if the victim of the sexual ~~[assault]~~ *offense or offense involving a pupil* voluntarily waives, in writing, the confidentiality of the information concerning the victim's identity.

Sec. 2. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 offender.

5. Except as otherwise provided in subsection 9, if a sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier 3 offender and the sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

6. A sex offender placed under the system of active electronic monitoring pursuant to subsection 4 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

7. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

8. Except as otherwise provided in subsection 7, a sex offender who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

9. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3, 4 and 5 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

10. *The Board shall require as a condition of lifetime supervision that the sex offender not have contact or communicate with a victim of the sexual offense or a witness who testified against the sex offender or solicit another person to engage in such contact or communication on behalf of the sex offender, unless approved by the Chief or his designee and a written agreement is entered into and signed.*

11. If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.

~~[11.]~~ *12.* For the purposes of prosecution of a violation by a sex offender of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

Sec. 2.5. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.097,

the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the parolee.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The parolee keeps the parole and probation officer informed of his current address.

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee.

(d) Participate in and complete a program of professional counseling approved by the Division.

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance.

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee.

(g) Abstain from consuming, possessing or having under his control any alcohol.

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the ~~[parole and probation officer assigned to the parolee,]~~ *Chief or his designee* and a written agreement is entered into and signed in the manner set forth in subsection 2.

(i) Not use aliases or fictitious names.

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee.

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.097 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact.

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services,

a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a parolee who is a Tier 3 offender.

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee.

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee.

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee.

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The parolee;

(c) The parole and probation officer assigned to the parolee;

(d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; ~~[and]~~

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[.]~~ *; and*

(f) The Chief or his designee.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 3. (Deleted by amendment.)

Sec. 4. The amendatory provisions of this act apply to a person who is convicted on or after October 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.

Thank you, Mr. President. The amendment expands the prohibition on public disclosure of a sexual assault victim's identity to include victims of statutory sexual seduction or sexual conduct involving a pupil or student.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 326.

Bill read second time and ordered to third reading.

Assembly Bill No. 350.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 737.

"SUMMARY—Makes various changes relating to common-interest communities. (BDR 10-620)"

"AN ACT relating to common-interest communities; revising provisions relating to ~~[costs of collection and the payment of fines and assessments, the rights of a unit's owner with respect to meetings and the budgets for the daily operation of a common interest community; establishing certain standards for management agreements; establishing the duties, responsibilities and standards of practice for community managers; making various other changes relating to common interest communities;]~~ *interest on certain past due assessments; providing that punitive damages may not be awarded against the members of the executive board or the officers of an association under certain circumstances;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1.5 of this bill authorizes an association to charge a reasonable fee for costs associated with collecting any past due obligation. Section 3 of this bill provides that in addition to complying with the business judgment rule, officers and members of the executive board of an association are required to act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. (NRS 116.3103)]~~

Existing law provides that: (1) punitive damages may not be recovered against an association, but may be recovered against persons whose activity gave rise to the damages; and (2) punitive damages may be awarded for a willful and material failure to comply with any provision of chapter 116 of NRS. (NRS 116.31036, 116.4117) Sections 5.5 and 16.5 of this bill provide that punitive damages may not be recovered against the members of the executive board or the officers of an association for acts or omissions that occur in their capacity as members or officers.

Existing law ~~[authorizes an executive board to impose fines for certain violations of the governing documents and to assess interest on any unpaid fines at a rate established by the association, not to exceed the legal rate per annum. (NRS 116.31031) Section 4 of this bill eliminates the authority to charge interest on any past due fines.]~~ *provides that any past due assessment*

for common expenses or installment thereof bears interest at the rate established by the association, which must not exceed 18 percent per year. Section 9 of this bill provides that the association may charge the prime rate plus 2 percent on *such* a past due assessment, beginning when the assessment is 60 days past due.

~~[Sections 6-8 of this bill provide that: (1) a unit's owner may receive, free of charge, a copy or summary of the minutes of a meeting of the units' owners or executive board in electronic format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page; (2) at each meeting of the units' owners or executive board, a unit's owner must be allowed to speak for a minimum of 2 minutes at the beginning of the meeting and for a minimum of 2 minutes on each agenda item at the time the agenda item is being addressed; and (3) a meeting of the executive board must be held at a time other than during normal business hours at least twice per year. (NRS 116.3108, 116.31083, 116.31085)~~

~~Section 10 of this bill requires an executive board to: (1) provide in the budget for the daily operation of the association an itemized list of expenses in excess of $100 expected to be incurred in each month; and (2) include in the budget a requirement that any money budgeted for nonrecurring expenses in excess of $100, other than expenses necessary for emergency repairs or emergency services, may not be expended without first obtaining the signatures of at least two members of the executive board. (NRS 116.31151) Section 10 also requires the budget to be available for review at a location not to exceed 60 miles from the common interest community.~~

~~Section 12 of this bill requires the books, records and other papers of an association to be available for review at the business office of the association or a location not to exceed 60 miles from the common interest community. Section 12 also requires that a copy of such documents must be provided to a unit's owner in electronic format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page. (NRS 116.31175)~~

~~Section 12.3 of this bill provides that if a unit's owner is the subject of retaliatory action based on certain complaints or requests, he may bring an action to recover compensatory damages and attorney's fees and costs. (NRS 116.31183)~~

~~Sections 13.5 and 15 of this bill require a public offering or a resale package to include a statement listing all current and expected fees for each unit.~~

~~Section 18.3 of this bill establishes the requirements concerning the disclosures that a community manager must make before entering into a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.310)~~

~~Section 18.4 of this bill sets forth the requirements of a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.305)~~

~~Section 18.5 of this bill sets forth the responsibilities and duties of a community manager, incorporates into statute many of the existing provisions of the Nevada Administrative Code and adds certain new responsibilities and duties. (NAC 116.300) Section 18.5 also provides that a community manager acts as a fiduciary at all times and must exercise ordinary and reasonable care in performing his duties.~~

~~Section 18.6 of this bill incorporates into statute many of the existing provisions of the Nevada Administrative Code pertaining to standards of practice for community managers and conduct warranting disciplinary action and establishes certain new requirements, such as provisions governing the acceptance of any compensation, gift or any other item of material value by the community manager. (NAC 116.341)]~~

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

Section 1. (Deleted by amendment.)

Sec. 1.5. ~~[Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. If the governing documents authorize an association to charge a unit's owner the costs of collecting any past due obligation, the association may charge the unit's owner a reasonable fee to cover such costs. The Commission shall adopt regulations establishing the amount of the fee that an association may charge pursuant to this section.*~~

~~*2. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.*~~

~~*3. As used in this section:*~~

~~*(a) "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court.*~~

~~*(b) "Obligation" means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.]*~~ *(Deleted by amendment.)*

Sec. 2. ~~[NRS 116.3102 is hereby amended to read as follows:~~

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments [.] *pursuant to NRS 116.3115.*

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

~~(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.~~

~~(q) Exercise any other powers conferred by the declaration or bylaws.~~

~~(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.~~

~~(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:~~

~~(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or~~

~~(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.~~

~~(t) Exercise any other powers necessary and proper for the governance and operation of the association.~~

~~2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.]~~ *(Deleted by amendment.)*

Sec. 3. ~~[NRS 116.3103 is hereby amended to read as follows:~~

~~116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries [.]~~ *and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association.* ~~The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business judgment rule.~~

~~2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.]~~ *(Deleted by amendment.)*

Sec. 4. ~~[NRS 116.31031 is hereby amended to read as follows:~~

~~116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the~~

governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any [interest,] charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

(a) Pays the fine;

(b) Executes a written waiver of the right to the hearing; or

~~(c) Fails to appear at the hearing after being provided with proper notice of the hearing.~~

~~5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7 day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.~~

~~6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.~~

~~7. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.~~

~~8. Any past due fine [:~~

~~(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.~~

~~(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common interest community, the rate established by the association for the costs of collecting the past due fine:~~

~~(1) May not exceed $20, if the outstanding balance is less than $200.~~

~~(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.~~

~~(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.~~

~~(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.~~

~~(5) May not exceed $500, if the outstanding balance is $5,000 or more.~~

~~(c) May]~~ *must not bear interest, but may* ~~include any costs incurred by the association during a civil action to enforce the payment of the past due fine.~~

~~[9. As used in this section:~~

~~(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.~~

~~(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.]]~~ *(Deleted by amendment.)*

Sec. 5. (Deleted by amendment.)

Sec. 5.5. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. The removal 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 removal of a 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) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) 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.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, 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.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against ~~[the]~~ *:*

(a) The association ~~[, but may be recovered from persons whose activity gave rise to the damages.]~~ *;*

(b) The members of the executive board for acts or omissions that occur in their capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 6. ~~[NRS 116.3108 is hereby amended to read as follows:~~

~~116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.~~

~~2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:~~

~~(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws~~

~~shall cause notice of the meeting to be hand delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request [and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ~~*, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page*~~.

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~4. The agenda for a meeting of the units' owners must consist of:~~

~~(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.~~

~~(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~(c) A period *at the beginning of each meeting and a period at the time each agenda item is addressed* devoted to comments by units' owners and discussion of those comments. *A unit's owner must be granted a minimum of 2 minutes to speak at the beginning of the meeting and a minimum of 2 minutes to speak on each agenda item at the time the agenda item is being addressed.* Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).~~

~~5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or~~

~~other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. [A]~~ ~~*Except as otherwise provided in this subsection, a*~~ ~~copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request [and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ~~*, in electronic format at no charge to the unit's owner. If the unit's owner requests a copy of the minutes or a summary of the minutes of the meeting and the association is unable to provide the copy or summary in electronic format, the association shall provide a paper copy or summary to the unit's owner at a cost not to exceed 10 cents per page.*~~

~~7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:~~

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

~~(b) The substance of all matters proposed, discussed or decided at the meeting; and~~

~~(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.~~

~~9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.~~

~~10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.]~~ *(Deleted by amendment.)*

Sec. 7. ~~[NRS 116.31083 is hereby amended to read as follows:~~

~~116.31083 1. A meeting of the executive board must be held at least once every 90 days~~ [.] ~~*and must be held at a time other than during standard business hours at least twice annually.*~~

~~2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:~~

~~(a) Sent prepaid by United States mail to the mailing address of each unit within the common interest community or to any other mailing address designated in writing by the unit's owner;~~

~~(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.~~

~~3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common interest community or posted in a prominent place or places within the common elements of the association.~~

~~4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request~~ [and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.] ~~*, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page*~~.

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108.~~ [The period required to be] *A period at the beginning of each meeting and a period at the time each agenda item is addressed must be* devoted to comments by the units' owners and discussion of those comments. [must be scheduled for the beginning of each meeting.] ~~*A unit's owner must be granted a minimum of 2 minutes to speak at the beginning of each meeting and a minimum of 2 minutes to speak on each agenda item at the time the agenda item is being addressed*~~. ~~In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall~~

~~review, at a minimum, the following financial information at one of its meetings:~~

~~(a) A current year-to-date financial statement of the association;~~

~~(b) A current year to date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;~~

~~(c) A current reconciliation of the operating account of the association;~~

~~(d) A current reconciliation of the reserve account of the association;~~

~~(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and~~

~~(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.~~

~~7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners.~~ [A] ~~*Except as otherwise provided in this subsection, a* copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request~~ [and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.] ~~*, in electronic format at no charge to the unit's owner. If the unit's owner requests a copy of the minutes or a summary of the minutes of the meeting and the association is unable to provide the copy or summary in electronic format, the association shall provide a written copy or summary to the unit's owner at a cost not to exceed 10 cents per page.*~~

~~8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:~~

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

~~(b) Those members of the executive board who were present and those members who were absent at the meeting;~~

~~(c) The substance of all matters proposed, discussed or decided at the meeting;~~

~~(d) A record of each member's vote on any matter decided by vote at the meeting; and~~

~~(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.~~

~~10. The association shall maintain the minutes of each meeting of the executive board until the common interest community is terminated.~~

~~11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is~~

~~meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.~~ *(Deleted by amendment.)*

Sec. 8. ~~[NRS 116.31085 is hereby amended to read as follows:~~

~~116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.~~[.] ~~*, but must allow a unit's owner a minimum of 2 minutes to speak at the beginning of the meeting and a minimum of 2 minutes to speak on each agenda item at the time the agenda item is being addressed.*~~

~~2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.~~

~~3. An executive board may meet in executive session only to:~~

~~(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.~~

~~(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.~~

~~(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.~~

~~(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.~~

~~4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:~~

~~(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; and~~

~~(b) Is not entitled to attend the deliberations of the executive board.~~

~~5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.~~

~~6. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.~~] *(Deleted by amendment.)*

Sec. 9. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary.

3. Any ~~[past due]~~ assessment for common expenses or installment thereof *that is 60 days or more past due* bears interest at ~~[the rate established by the association not exceeding 18 percent per year.]~~ *a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus*

2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 10. ~~[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~~ *following:*

~~*(1) The* estimated annual revenue and expenditures of the association ; [and any]~~

~~*(2) Any* contributions to be made to the reserve account of the association.~~

~~*(3) For each month in which expenses in excess of $100 are estimated to be incurred, an itemized list of the expenses expected to be incurred during that month.*~~

~~*(4) A requirement that any money budgeted for nonrecurring expenses in excess of $100, other than expenses necessary for emergency repairs or*~~

~~*emergency services, must not be expended without first obtaining the signatures of at least two members of the executive board.*~~

~~(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 [;] *but not to exceed 60 miles from the physical location of the common-interest community;* 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. *The executive board must provide full disclosure concerning the proposed budget and allow comments by units' owners and discussion of those comments.* 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.]~~ *(Deleted by amendment.)*

Sec. 11. ~~[~~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 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.~~] *(Deleted by amendment.)*

Sec. 12. ~~[NRS 116.31175 is hereby amended to read as follows:~~

~~116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review *at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and* during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:~~

~~(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;~~

~~(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and~~

~~(c) A contract between the association and an attorney.~~

~~2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:~~

~~(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.~~

~~(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.~~

~~(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.~~

~~3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:~~

~~(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and~~

~~(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.~~

~~4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:~~

~~(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or~~

~~(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.~~

~~5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section. *Upon written request of a unit's owner, copies must be provided to the unit's owner, in electronic format at no charge or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.]* *(Deleted by amendment.)***

Sec. 12.3. ~~[NRS 116.31183 is hereby amended to read as follows:~~

~~116.31183 *1.* An executive board, a member of an executive board or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:~~

~~[1.] *(a)* Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association; or~~

~~[2.] *(b)* Requested in good faith to review the books, records or other papers of the association.~~

~~*2. In addition to any other remedy provided by law, upon a violation of this section, a unit's owner may bring a separate action to recover:*~~

~~*(a) Compensatory damages; and*~~

~~*(b) Attorney's fees and costs of bringing the separate action.]* *(Deleted by amendment.)***

Sec. 12.7. ~~[NRS 116.31185 is hereby amended to read as follows:~~

~~116.31185 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:~~

~~(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or~~

~~(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.~~

~~2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:~~

~~(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or~~

~~(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.~~

~~3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.~~

~~4. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.~~

~~5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:~~

~~(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association; or~~

~~(b) Any percentage or proportion of those fines.~~

~~6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:~~

~~(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers *set forth in sections 18.5 and 18.6 of this act and any additional standards of practice* adopted by the Commission *by regulation* pursuant to NRS 116A.400;~~

~~(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the common interest community; and~~

~~(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.]~~ *(Deleted by amendment.)*

Sec. 13. (Deleted by amendment.)

Sec. 13.5. ~~[NRS 116.4103 is hereby amended to read as follows:~~

~~116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:~~

~~(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.~~

~~(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.~~

~~(c) The estimated number of units in the common-interest community.~~

~~(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat or plan is not required.~~

~~(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:~~

~~(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and~~

~~(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.~~

~~(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.~~

~~(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.~~

~~(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.~~

~~(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.~~

~~(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.~~

~~(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.~~

~~(l) *In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.*~~

~~*(m)* The information statement set forth in NRS 116.41095.~~

~~2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."]~~ *(Deleted by amendment.)*

Sec. 14. (Deleted by amendment.)

Sec. 15. ~~[NRS 116.4109 is hereby amended to read as follows:~~

~~116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:~~

~~(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;~~

~~(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;~~

~~(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and~~

~~(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to~~

~~the common interest community of which the unit's owner has actual knowledge.~~

~~*(c) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.*~~

~~2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:~~

~~(a) Cancel the contract pursuant to this subsection; or~~

~~(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.~~

~~3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:~~

~~(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and~~

~~(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.~~

~~4. If the association furnishes the documents and certificate pursuant to subsection 3:~~

~~(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.~~

~~(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.~~

~~(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.~~

~~(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.~~

~~5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.~~

~~6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available 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.]~~ *(Deleted by amendment.)*

Sec. 16. (Deleted by amendment.)

Sec. 16.5. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. If a declarant or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply has a claim for appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages caused by a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant; or

(2) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

3. ~~[Punitive]~~ *Except as otherwise provided in NRS 116.31036, punitive* damages may be awarded for a willful and material failure to comply with this chapter if the failure is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

5. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

Sec. 17. ~~[NRS 116.745 is hereby amended to read as follows:~~

~~116.745 As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires, "violation" means a violation of [any].:~~

~~*1. Any* provision of this chapter [, any].;~~

~~*2. Any* regulation adopted pursuant~~ [thereto or any] ~~*to this chapter;*~~

~~*3. Any* order of the Commission or a hearing panel~~ [.] ~~*; or*~~

~~*4. Any provision of the governing documents of an association.]*~~ *(Deleted by amendment.)*

Sec. 18. (Deleted by amendment.)

Sec. 18.05. ~~[Chapter 116A of NRS is hereby amended by adding thereto the provisions set forth as sections 18.1 to 18.6, inclusive, of this act.]~~ *(Deleted by amendment.)*

Sec. 18.1. ~~[*"Client" means an executive board that has entered into a management agreement with a community manager.]*~~ *(Deleted by amendment.)*

Sec. 18.2. ~~[*"Management agreement" means an agreement for the management of a common interest community.]*~~ *(Deleted by amendment.)*

Sec. 18.3. ~~[*Before entering into a management agreement, a community manager shall disclose in writing to the prospective client any material and relevant information which he knows, or by the exercise of reasonable care and diligence should know, relate to the performance of the management agreement, including any matters which may affect his ability to comply with the provisions of this chapter or chapter 116 or 116B of NRS. Such written disclosure must include, without limitation:*

1. Whether he, or any member of his organization, expects to receive any direct or indirect compensation, gifts or profits from any person who will perform services for the client and, if so, the identity of the person and the nature of the services rendered.

2. Any affiliation with or financial interest in any person or business who furnishes any goods or services to the association.

3. Any pecuniary relationships with any unit's owner, member of the executive board or officer of the association.]~~ *(Deleted by amendment.)*

Sec. 18.4. ~~[*1. Any management agreement must:*

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited liability partnership, limited liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

(1) The costs for any new association or start-up costs;

(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;

(3) Reimbursable expenses;

~~*(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and*~~

~~*(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;*~~

~~*(f) State the identity and the legal status of the contracting parties;*~~

~~*(g) State any limitations on the liability of each contracting party;*~~

~~*(h) Include a statement of the scope of work of the community manager;*~~

~~*(i) State the spending limits of the community manager;*~~

~~*(j) Include provisions relating to the grounds and procedures for termination of the community manager;*~~

~~*(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:*~~

~~*(1) A requirement that the community manager or his employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of $1,000,000 or more;*~~

~~*(2) An indication of which contracting party will maintain fidelity bond coverage; and*~~

~~*(3) A statement as to whether the association will maintain directors and officers liability coverage for the executive board;*~~

~~*(l) Include provisions for dispute resolution;*~~

~~*(m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;*~~

~~*(n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;*~~

~~*(o) State the frequency and extent of regular inspections of the common-interest community; and*~~

~~*(p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.*~~

~~*2. In addition to any other requirements under this section, a management agreement may:*~~

~~*(a) Provide for mandatory binding arbitration; or*~~

~~*(b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.*~~

~~*3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:*~~

~~*(a) The names and addresses of all insurance companies;*~~

~~*(b) The total amount of coverage; and*~~

~~*(c) The amount of any deductible.*~~

~~*4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.*~~

~~*5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.*~~

~~*6. Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.*~~

~~*7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.]*~~ *(Deleted by amendment.)*

Sec. 18.5. ~~*[In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall:*~~

~~*1. Except as otherwise provided by specific statute, at all times:*~~

~~*(a) Act as a fiduciary in any client relationship; and*~~

~~*(b) Exercise ordinary and reasonable care in the performance of his duties.*~~

~~*2. Comply with all applicable:*~~

~~*(a) Federal, state and local laws, regulations and ordinances; and*~~

~~*(b) Lawful provisions of the governing documents of each client.*~~

~~*3. Keep informed of new developments in the management of a common-interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.*~~

~~*4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.*~~

~~*5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.*~~

~~*6. At all times ensure that:*~~

~~*(a) The financial transactions of a client are current, accurate and properly documented; and*~~

~~*(b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:*~~

~~*(1) Proper maintenance of accounting records;*~~

~~*(2) Documentation of the authorization for any purchase orders, expenditures or disbursements;*~~

~~*(3) Verification of the integrity of the data used in business decisions;*~~

~~*(4) Facilitation of fraud detection and prevention; and*~~

~~*(5) Compliance with all applicable laws and regulations governing financial records.*~~

~~*7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.*~~

~~*8. Cause to be prepared annually a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.*~~

~~*9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.*~~

~~*10. Cooperate with the Division in resolving complaints filed with the Division.*~~

~~*11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.*~~

~~*12. Maintain and invest association funds in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor Protection Corporation, or a private insurer approved pursuant to NRS 678.755, or in government securities that are backed by the full faith and credit of the United States Government.*~~

~~*13. Except as required under collection agreements, maintain the various funds of the association in separate financial accounts in the name of the association and ensure that the association is authorized to have direct access to those accounts.*~~

~~*14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.*~~

~~*15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.*~~

~~*16. Ensure that the executive board develops and approves written investment policies and procedures.*~~

~~*17. Recommend in writing to each client that the association register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.*~~

~~*18. Comply with the directions of a client, unless the directions conflict with the governing documents of the association or the applicable laws or regulations of this State.*~~

~~*19. Recommend in writing to each client that the association be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the association.*~~

~~*20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the association.*~~

~~*21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:*~~

~~*(a) That the executive board approve all write-offs of debt; and*~~

~~*(b) That the community manager provide timely updates and reports as necessary.]*~~ *(Deleted by amendment.)*

Sec. 18.6. ~~*[In addition to the standards of practice for community managers set forth in section 18.5 of this act and any additional standards of practice adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall not:*~~

~~*1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.*~~

~~*2. Impede or otherwise interfere with an investigation of the Division by:*~~

~~*(a) Failing to comply with a request of the Division to provide documents;*~~

~~*(b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or*~~

~~*(c) Concealing any facts or documents relating to the business of a client.*~~

~~*3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager.*~~

~~*4. Use money or other property of a client for his own personal use.*~~

~~*5. Be a signer on a withdrawal from a reserve account of a client.*~~

~~*6. Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney-client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement.*~~

~~*7. Provide or attempt to provide to a client a service concerning a type of property or service:*~~

~~*(a) That is outside his field of experience or competence without the assistance of a qualified authority unless the fact of his inexperience or*~~

~~*incompetence is disclosed fully to the client and is not otherwise prohibited by law; or*~~

~~*(b) For which he is not properly licensed.*~~

~~*8. Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.*~~

~~*9. Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.*~~

~~*10. Collect any fees or other charges from a client not specified in the management agreement.*~~

~~*11. Accept any compensation, gift or any other item of material value as payment or consideration for a referral or in the furtherance or performance of his normal duties unless:*~~

~~*(a) Acceptance of the compensation, gift or other item of material value complies with the provisions of NRS 116.31185 or 116B.695 and all other applicable federal, state and local laws, regulations and ordinances; and*~~

~~*(b) Before acceptance of the compensation, gift or other item of material value, the community manager provides full disclosure to the client and the client consents, in writing, to the acceptance of the compensation, gift or other item of material value by the community manager.]*~~ *(Deleted by amendment.)*

Sec. 18.7. ~~[NRS 116A.010 is hereby amended to read as follows:~~

~~116A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 116A.020 to 116A.130, inclusive, *and sections 18.1 and 18.2 of this act* have the meanings ascribed to them in those sections.]~~ *(Deleted by amendment.)*

Sec. 18.8. ~~[NRS 116A.400 is hereby amended to read as follows:~~

~~116A.400 1. Except as otherwise provided in this section, a person shall not act as a community manager unless the person holds a certificate.~~

~~2. [The]~~ *In addition to the standards of practice for community managers set forth in sections 18.5 and 18.6 of this act, the* ~~Commission shall by regulation [provide for the]~~ *adopt any additional* standards of practice for ~~community managers who hold certificates [.]~~ *that the Commission deems appropriate and necessary.*

~~3. The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the provisions of this chapter and chapters 116 and 116B of NRS and [the]~~ *any additional* 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 community manager who holds a certificate has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the *additional* standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.~~

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

~~(a) Refuse to issue a certificate 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 certificate 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) A financial institution that is engaging in an activity permitted by law.~~

~~(b) An attorney who is licensed to practice in this State and who is acting in that capacity.~~

~~(c) A trustee with respect to the property of the trust.~~

~~(d) A receiver with respect to property subject to the receivership.~~

~~(e) 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.~~] *(Deleted by amendment.)*

Sec. 18.9. ~~[NRS 116B.695 is hereby amended to read as follows:~~

~~116B.695 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:~~

~~(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or~~

~~(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.~~

~~2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association or a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:~~

~~(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or~~

~~(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable condominium hotel or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.~~

~~3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.~~

~~4. A declarant, an affiliate of a declarant or any person responsible for the construction of a condominium hotel or association [,] shall not provide,~~

~~directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.~~

~~5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:~~

~~(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to this chapter for violations of the governing documents of the association; or~~

~~(b) Any percentage or proportion of those fines.~~

~~6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:~~

~~(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers *set forth in sections 18.5 and 18.6 of this act and any additional standards of practice* adopted by the Commission *by regulation* pursuant to NRS 116A.400;~~

~~(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the association of the condominium hotel; and~~

~~(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.~~] *(Deleted by amendment.)*

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. 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.

The amendment retains two provisions currently in the bill concerning punitive damages and the ability of the unit owners' association to charge the interest on late fees or other items at the legal rate. The amendment deletes all other sections of the bill.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 360.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 708.

"SUMMARY—Authorizes the temporary creation of certain special districts. (BDR 25-733)"

"AN ACT relating to special districts; authorizing the temporary creation of certain special districts to manage certain federal funds provided to the State; requiring that certain federal funds be distributed directly to certain special districts; requiring certain reporting in connection with such special districts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Chapter 308 of NRS provides for the creation of various types of special districts for various purposes. This bill authorizes the creation of special districts to manage money that is: (1) paid to the State by the Federal Government; and (2) designated for the territory covered by the district. To qualify, the number of county commissioners serving on the governing board of the special district cannot constitute a majority and the special district must be authorized to act independently of the county when managing the district. This bill also requires that, if a special district has been created, federal money be paid directly to the district and not to the county or counties within which the district lies.

Under the provisions of this bill, the governing body of any special district created pursuant thereto must, on or before January 1, 2011, submit a one-time report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

The provisions of this bill expire by limitation on June 30, 2013.

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

Section 1. Chapter 308 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A special district may be formed subject to the provisions of this chapter:

(a) To manage any money that is:

(1) Paid to the State of Nevada or to a county by the Federal Government; and

(2) Designated for the territory covered by the special district; and

(b) With a governing body:

(1) Of which not more than half of the members are also members of the ~~[governing body or bodies]~~ board of county commissioners of the county ~~[or counties]~~ within which lies the territory covered by the special district; and

(2) Which is authorized to act independently of the ~~[governing body or bodies]~~ board of county commissioners of the county ~~[or counties]~~ within which lies the territory covered by the special district.

2. If a special district is formed pursuant to the provisions of this section to manage money that is:

(a) Paid to the State of Nevada or to a county by the Federal Government pursuant to a specified bill or measure of the Federal Government; and

(b) Designated for the territory covered by the special district,

➥ *any such money must be distributed directly to the special district for expenditure.*

Sec. 2. NRS 354.140 is hereby amended to read as follows:

354.140 1. ~~[The]~~ *Except as otherwise provided in subsection 2, the* money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500, providing for the payment to states and territories of a fixed percentage of the money received by the Government of the United States from the forest reserves established therein, must be distributed respectively to the county or counties in which the forest reserves are situated . ~~[, to]~~

2. If a special district has been formed pursuant to the provisions of section 1 of this act to manage money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500 from forest reserves established within the territory covered by the special district, any such money must be distributed directly to the special district.

3. Money distributed pursuant to subsections 1 and 2 must be expended for the benefit of the public schools and the public roads of the county or counties in equal proportion for each object. The proportion for schools must be paid into the county school district fund. If there is a county road fund, the proportion for roads must be paid into the county road fund. If there is no county road fund, the proportion for roads must be paid into the county general fund for public road purposes.

~~[2.]~~ *4.* When any forest reserve is in more than one state or county, the distributive share to each must be proportional to its area therein, following as near as may be the figures submitted to the State of Nevada respecting net forest area and county acreage therein by the Forest Service, United States Department of Agriculture.

~~[3.]~~ *5.* The agency which is responsible for completing any audit required for the continuation of the payments must be reimbursed for the cost of the audit from the funds to which the payments were distributed proportionately according to the percentage of the payment which was distributed to each fund.

Sec. 3. 1. On or before January 1, 2011, the governing body of any special district formed pursuant to the provisions of section 1 of this act shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

2. The report required to be submitted in accordance with subsection 1 must include, without limitation:

(a) A description of the boundaries of the special district.

(b) The form and composition of the governance of the special district.

(c) The total number of dollars received by the special district, directly or indirectly, from the Federal Government.

(d) The purposes for which the money described in paragraph (c) was spent and will be spent.

(e) A description of the activities engaged in by the special district.

(f) Any other information that is requested by the Director of the Legislative Counsel Bureau which the Director determines would be helpful to the Legislature in evaluating the efficacy, efficiency and usefulness of the special district.

Sec. 4. This act becomes effective on July 1, 2009, and expires by limitation on June 30, 2013.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

This amendment clarifies that the governing body of a special district formed as set forth in the bill would include members from the board of commissioners of a single county and that the special district would act independently of that board of commissioners.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 402.

Bill read second time and ordered to third reading.

Assembly Bill No. 414.

Bill read second time and ordered to third reading.

Assembly Bill No. 463.

Bill read second time.

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

Amendment No. 758.

"SUMMARY—Restricts a department, division or other agency of this State from employing a person as a consultant. (BDR 23-1057)"

"AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; *providing certain exceptions;* requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with ~~[consultants and]~~ temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill restricts a department, division or other agency of this State from employing a person as a consultant for the agency. Section 1 requires the Interim Finance Committee to approve the employment of a consultant under certain circumstances and limits the approval of the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State and at least 1 year has

not expired before the person is employed as a consultant. Section 1 also requires each board, commission, school district and institution of the Nevada System of Higher Education to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant employed by the entity. Section 1 also requires that contracts with ~~[consultants and]~~ temporary employment services be awarded by open competitive bidding. *Section 1 further provides that certain exceptions apply for the employment of persons for a period of less than 4 months under certain conditions and for the employment of certain persons by the Department of Transportation for transportation projects that are solely federally funded.* Section 2.5 of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency. Section 2.7 of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.

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

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in ~~[subsection 6,]~~ this section, a department, division or other agency of this State shall not employ, by contract or otherwise, a person to provide services as a consultant for the agency if:

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than 1 year has expired since the termination of his employment with the State; ~~[or]~~

(c) ~~[The]~~ Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years ~~[,]~~ ; or

(d) The person is employed by the Department of Transportation for a transportation project that is solely federally funded and the term of the contract is for more than 4 years, or is amended or otherwise extended beyond 4 years,

➥ *unless, before the person is employed by the agency, the Interim Finance Committee approves the employment of the person.*

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The Interim Finance Committee shall not approve the employment of a consultant pursuant to paragraph (b) of subsection 1 unless the Interim Finance Committee determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to employ the person as a consultant.

3. A department, division or other agency of this State may employ a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the Interim Finance Committee if the term of employment is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the employment. If a department, division or agency employs a person pursuant to this subsection, the department, division or agency shall include in the report to the Interim Finance Committee pursuant to subsection 4 a description of the emergency.

4. Except as otherwise provided in subsection ~~[6,]~~ 7, a department, division or other agency of this State shall report to the Interim Finance Committee whenever it employs, by contract or otherwise, a person to provide services as a consultant for the agency who is a former employee of a department, division or other agency of this State.

~~[4.]~~ 5. Except as otherwise provided in subsection ~~[6,]~~ 7, a department, division or other agency of this State shall not contract with a ~~[consultant or a]~~ temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

~~[5.]~~ 6. Each board or commission of this State, each school district in this State and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission, school district or institution;

(b) The purpose for which the board, commission, school district or institution employs each consultant;

(c) The amount of money or other remuneration received by each consultant from the board, commission, school district or institution; and

(d) The length of time each consultant has been employed by the board, commission, school district or institution.

~~[6.]~~ 7. The provisions of subsections 1 to ~~[4,]~~ 5, inclusive, do not apply to the :

(a) Nevada System of Higher Education or a board or commission of this State.

(b) Employment of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is solely federally funded.

~~[7.]~~ 8. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.

Sec. 2. NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~[.]~~ *and section 1 of this act.* In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 2.5. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; ~~[and]~~

(b) *Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and*

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years

compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 2.7. 1. The Legislative Auditor shall conduct an audit concerning the use by agencies of the Executive Branch of State Government of contracts with consultants. The State Controller shall provide such information as is requested by the Legislative Auditor to assist with the completion of the audit.

2. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a contract of employment specified in that section that is entered into or renewed before the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Amendment No. 758 to Assembly Bill No. 463 makes allowances for shortages of professional engineers, and provides agency flexibility for emergency circumstances requiring a rapid response.

First, the amendment clarifies that certain contracting processes specified in the bill that are subject to the rules of open competitive bidding apply to temporary employment services, not to consultants.

Second, the amendment provides for emergency hiring of certain contractors by waiving prior approval by the Interim Finance Committee (IFC) for contractors hired for less than four months when an emergency situation is identified. A subsequent report about the employment must then be submitted to IFC.

Third, the amendment provides an exemption for Nevada's Department of Transportation for contracts of up to four years for persons working on projects using only federal funds. Contracts for professional engineers employed on such projects are subject to reporting requirements specified elsewhere in the bill.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 487.

Bill read second time.

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

Amendment No. 738.

"SUMMARY—Revises provisions governing pupils enrolled in middle school and junior high school. (BDR 34-780)"

"AN ACT relating to education; requiring the development of an academic plan for pupils enrolling in their initial year at a middle school or junior high school; requiring small learning communities in certain larger middle schools and junior high schools; requiring a program of peer mentoring for pupils initially enrolling in middle school or junior high school; requiring the board of trustees of each school district to adopt a policy for pupils enrolled in middle school or junior high school to conduct a pupil-led conference on educational progress; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. (NRS 388.205) Section 2 of this bill requires the board of trustees of each school district to adopt a policy for each middle school and junior high school in the school district to develop an academic plan for each incoming middle school or junior high school pupil.

Existing law requires the board of trustees of each school district that includes at least one high school in which 1,200 pupils or more are enrolled and that includes ninth grade pupils to adopt a policy for each of those high schools to provide a program of small learning communities for the ninth

grade pupils. (NRS 388.215) Section 3 of this bill requires the board of trustees of each school district that includes at least one middle school or junior high school in which 500 pupils or more are enrolled to adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for the incoming middle school or junior high school pupils.

Section 5 of this bill requires the board of trustees of each school district to adopt a policy for peer mentoring, which may include a component of adult mentoring, for incoming middle school and junior high school pupils designed to increase the ability of those pupils to successfully make the transition from elementary school to middle school or junior high school.

Section 6 of this bill requires the board of trustees of each school district to adopt a policy for pupils enrolled in a middle school or junior high school to conduct, if required by the board of trustees, a pupil-led conference between the pupil, his parent or legal guardian and his teacher to review the educational development of the pupil.

Section 7 of this bill provides that the policies required by sections 2, 3, 5 and 6 of this bill must be adopted by each school district on or before January 1, 2011, for implementation beginning with the 2011-2012 School Year.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. The board of trustees of each school district shall adopt a policy for each middle school and junior high school in the school district to develop an academic plan for each pupil enrolled in the grade level at which the middle school or junior high school initially enrolls pupils. The academic plan must set forth:*

(a) The specific educational goals that the pupil intends to achieve before promotion to high school;

(b) An identification of the courses required for promotion to high school;

(c) An identification of all honors courses, career and technical education courses and other educational programs, courses and pathways available to the pupil which will assist in the advancement of the education of the pupil; and

(d) A description of the expectations of the teachers of pupils who are enrolled in middle school or junior high school.

2. The policy must require each pupil enrolled in his initial year at the middle school or junior high school and the pupil's parent or legal guardian to:

(a) Have sufficient opportunities to work in consultation with a school counselor to develop an academic plan for the pupil;

(b) Review the academic plan; and

(c) Review the academic plan at least once each school year until the pupil is promoted to high school in consultation with the school counselor and revise the plan as necessary.

3. If a pupil enrolls in a middle school or junior high school after the initial year of enrollment for that middle school or junior high school, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

4. An academic plan for a pupil must be used as a guide for the pupil and the pupil's parent or legal guardian to plan, monitor and manage the pupil's educational development and make determinations of the appropriate courses of study for the pupil. If the pupil does not satisfy all the educational goals set forth in the academic plan, the pupil is eligible for promotion to high school if he otherwise satisfies the requirements for promotion to high school.

Sec. 3. *1. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for pupils enrolled in the grade level at which those middle schools or junior high schools initially enroll pupils. The policy must require:*

(a) Where practicable, the designation of a separate area geographically within the middle school or junior high school where the pupils enrolled in their initial year at the middle school or junior high school attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of middle school or junior high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in his initial year at the middle school or junior high school, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in their initial year in a middle school or junior high school in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator or his designee; and

(3) Appropriate adult mentors,

➥ specifically for the pupils enrolled in their initial year at the middle school or junior high school.

2. The principal of each middle school or junior high school in which 500 pupils or more are enrolled shall:

(a) Carry out a program of small learning communities in accordance with the policy prescribed by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods which are used to focus on the pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, the program of mentoring provided pursuant to section 5 of this act.

Sec. 4. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.

Sec. 5. *1. The board of trustees of each school district shall adopt a policy for each middle school and junior high school in the school district to provide a program of peer mentoring, which may include a component of adult mentoring, for pupils enrolled in the grade level at which the middle school or junior high school initially enrolls pupils. The policy must be designed to increase the ability of those pupils to successfully make the transition from elementary school to middle school or junior high school.*

2. The principal of each middle school or junior high school shall:

(a) Carry out a program of mentoring in accordance with the policy adopted by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report to the board of trustees on:

(1) The specific activities of the program of mentoring; and

(2) The effectiveness of the program of mentoring in increasing the ability of pupils to successfully make the transition to middle school or junior high school.

3. This section does not prohibit a middle school or junior high school from continuing any other similar program of mentoring that the middle school or junior high school currently provides in a manner that is consistent with the policy prescribed by the board of trustees.

Sec. 6. *1. The board of trustees of each school district shall adopt a policy which allows the board of trustees to require a pupil enrolled in a middle school or junior high school in the school district to conduct a pupil-led conference between the pupil, his parent or legal guardian and his teacher to review the educational development of the pupil at least once during the enrollment of the pupil in the middle school or junior high school. The policy must include, without limitation:*

(a) Guidelines for preparing the pupil to conduct the conference, including, without limitation, the appropriate structure of a conference and topics of discussion for the conference; and

(b) A method for the pupil, his parent or legal guardian and the teacher to provide an evaluation of the conference.

2. If a pupil is required to conduct a pupil-led conference, the conference must be used as a guide for the pupil and the parent or legal guardian of the pupil to monitor the pupil's educational development. If the pupil does not conduct a pupil-led conference or if the parent or legal guardian of the pupil

does not attend a pupil-led conference, the pupil is eligible for promotion to high school if he otherwise satisfies the requirements for promotion to high school.

Sec. 7. 1. The board of trustees of each school district shall adopt the policies required by sections 2, 3, 5 and 6 of this act not later than January 1, 2011, for implementation beginning with the 2011-2012 School Year.

2. On or before June 1, 2010, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policies required by sections 2, 3, 5 and 6 of this act, including, without limitation, a plan for implementation of those policies beginning with the 2011-2012 School Year. On or before July 1, 2010, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

~~[Sec. 7.]~~ *Sec. 8. 1.* This ~~[act becomes]~~ *section and section 7 of this act become* effective on July 1, 2009.

2. Sections 2 to 6, inclusive, of this act become effective on July 1, 2009, for the purpose of adopting the policies required by sections 2, 3, 5 and 6 of this act and on July 1, 2011, for all other purposes.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Amendment No. 738 to Assembly Bill No. 487 requires the Board of Trustees of each school district to adopt policies concerning academic plans for middle and junior high pupils, small learning communities, peer mentoring and pupil-led conferences not later than January 1, 2011, for implementation beginning with the 2011-2012 school year. It requires the Board of Trustees to submit a report to the Superintendent of Public Instruction on or before June 1, 2010, concerning the status of the adoption of the policies. The State Superintendent is required to compile the reports on or before July 1, 2010, and submit the compilation to the Legislative Committee on Education.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 491.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 727.

"SUMMARY—Makes various changes concerning the execution on property of a judgment debtor or defendant. (BDR 2-948)"

"AN ACT relating to civil actions; providing that a certain amount of money held in a bank that is likely to be exempt from execution is not subject to a writ of execution or garnishment; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) Section 2 of this bill provides that a certain amount of money held in the *personal* bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor. *Section 2 further provides immunity from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. Section 2.5 of this bill provides that notwithstanding the provisions of section 2, if a judgment debtor has personal accounts in more than one financial institution, the writ may attach to all money in those account. The judgment debtor the must claim any exemption that may apply.*

Section 3 of this bill provides that a separate writ must be issued to levy on a safe-deposit box and provides a procedure for executing on such a writ. Section 5 of this bill revises the exemptions from execution so that the exemption for certain plans and accounts for deferred payments applies not only to the money that is held in the account, but also to the proceeds paid from those accounts. Section 5 also ~~[adds a new exemption for proceeds from a private disability insurance plan.]~~ *lists additional exemptions which are provided by Nevada law.*

Section 6 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. Sections 4 and 7 of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor so that the procedures listed in the notice reflect the changes made in section 6. Sections 4 and 7 further revise the notice to provide additional information concerning the claiming of exemptions. *Sections 1.5 and 6.5 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.*

~~[Section 9 of this bill prohibits a judgment creditor from submitting more than two applications for a writ of garnishment with respect to the same judgment for the same type of property if the property is held in a financial institution.]~~

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in section 2 of this bill. Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing

information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment. Section 14 of this bill provides that the fee for receiving and taking property on execution, attachment or court order collected by a constable is not payable in advance. Section 15 of this bill provides that certain benefits are exempt from execution regardless of whether they are mingled with other money. Section 16 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in section 6 of this bill.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections *1.5* ~~[2 and]~~ *to* 3 *, inclusive,* of this act.

Sec. 1.5. A constable may perform any of the duties of a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.

Sec. 2. *1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account,* ~~*[$2,500]*~~ *$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.* ~~*[Money which]*~~ *For the purposes of this section, money is reasonably identifiable as exempt from execution* ~~*[includes,]*~~ *if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation* ~~*[:]*~~ *, money deposited as:*

(a) Benefits provided pursuant to the Social Security Act ~~*[,]*~~ *which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits , [and] disability insurance benefits.* ~~*[,*~~

~~*(b)]*~~ *and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;*

(b) Veterans' benefits ~~*[, and]*~~ *which are exempt from execution pursuant to 38 U.S.C. § 5301;*

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or his surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, $1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.

3. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.

4. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.

5. If money in ~~[an]~~ the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, ~~[to]~~ the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether ~~[the]~~ such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide ~~[an accounting of]~~ statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. ~~[If a writ of execution or garnishment that is levied on the bank account of a judgment debtor is determined to be unenforceable because all of the money in the account is exempt from execution pursuant to subsection 1 or invalid or in violation of the provisions of this chapter or chapter 31 of NRS, the bank must not charge a fee to the judgment debtor regardless of any agreement with or policy of the bank to the contrary.]~~ A financial institution

which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Sec. 2.5. 1. Notwithstanding the provisions of section 2 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.

2. A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.

3. A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.

Sec. 3. *1. If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.*

2. During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.

3. The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

Sec. 4. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of

property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with

respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in ~~[:]~~ *and any proceeds paid from:*

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.

22. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

23. A tax refund received from the earned income credit provided by federal law or a similar state law.

24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons). *If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.*

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~[a notarized affidavit claiming the]~~ *an executed claim of* exemption. A copy of the ~~[affidavit]~~ *claim of exemption* must be served upon the sheriff ~~[and]~~ *, the garnishee and* the judgment creditor within ~~[8]~~ *20 calendar* days after the notice of execution *or garnishment* is ~~[mailed.]~~ *served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.* The property must be ~~[returned to you]~~ *released by the garnishee or the sheriff* within ~~[5]~~ *9 judicial* days after you ~~[file]~~ *serve* the ~~[affidavit]~~ *claim of exemption upon the sheriff, garnishee and judgment creditor,* unless ~~[you or the judgment creditor files a motion]~~ *the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice* for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~[motion]~~ *objection to the claim of exemption and notice* for the hearing to determine the issue of exemption must be filed

within ~~[10]~~ *8 judicial* days after the ~~[affidavit claiming]~~ *claim of* exemption is ~~[filed.]~~ *served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.* The hearing to determine whether the property or money is exempt must be held within ~~[10]~~ *7 judicial* days after the ~~[motion]~~ *objection to the claim of exemption and notice* for the hearing is filed. *You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.*

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ *EXECUTED CLAIM OF EXEMPTION* WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 5. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage

prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed $15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the $15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by him.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in ~~[:]~~ *and any proceeds paid from:*

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and

suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Proceeds received from a private disability insurance plan.

(dd) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(ee) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(ff) Unemployment compensation benefits received pursuant to NRS 612.710.

(gg) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(hh) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(ii) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(jj) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 6. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~[,]~~ *pursuant to this section,* the judgment debtor must, within ~~[8]~~ *20* *calendar* days after the notice ~~[prescribed in NRS 21.075 is mailed,]~~ *of a writ of execution or garnishment is served on him by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on,* serve on the sheriff *, the garnishee* and *the* judgment creditor and file with the clerk of the court issuing the writ of execution ~~[an affidavit setting out]~~ his claim of exemption ~~[.]~~ *which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of his earnings.*

2. The clerk of the court shall provide the form for the ~~[affidavit.~~

~~2.]~~ *claim of exemption and must further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions , instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.*

3. ~~[When the]~~ [affidavit] ~~*[claim of exemption* is served, the sheriff or *garnishee* shall release the property *and make the property available to the judgment debtor by not later than the end of business on the ninth day following such service* if the~~] [judgment creditor,] ~~*[sheriff or garnishee has not received* within~~] [5] ~~*[8* days~~] [after written demand by the sheriff:

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion]~~ ~~*[a copy of the objection to the claim of exemption and notice* for a hearing *from the judgment creditor* to determine whether the property or money is exempt.]~~

~~[➥]~~ ~~[The clerk of the court shall provide the form for the]~~ [motion.

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.]~~ ~~*[objection to the claim of exemption and notice for a hearing to determine whether the property or money is exempt.*~~

~~4.]~~ *An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is*

served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property ~~[,]~~ where ~~[:~~

~~(a) No affidavit claiming]~~ *a claim of* exemption is *not* served on him . ~~[; or~~

~~(b) An affidavit claiming exemption is served on him, but the sheriff fails to release the property in accordance with this section.~~

~~5.]~~ *6.* Unless the court continues the hearing for good cause shown, the hearing *on an objection to a claim of exemption* to determine whether the property or money is exempt must be held within ~~[10]~~ *7 judicial* days after the ~~[motion]~~ *claim of objection and notice* for ~~[the]~~ *a* hearing is filed.

~~[6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.]~~ *The judgment ~~[creditor]~~ debtor has the burden to prove that ~~[the judgment debtor is not]~~ he is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.*

7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee shall release the property to the sheriff or, if the property is held by the sheriff, the sheriff shall release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. ~~If a court determines after a hearing that an objection to a claim of exemption was claimed in bad faith or if the judgment creditor had reason to know that the property was exempt from execution or submitted more than two applications for a writ of execution for the same judgment on the same property or account of the judgment debtor in violation of subsection 2 of~~

~~*NRS 31.249, the court shall award to the judgment debtor reasonable costs, attorney fees, actual damages and an amount not to exceed $1,000.*~~

~~*10.]*~~ *The provisions of this section do not limit or prohibit any other remedy provided by law.*

~~*[11.]*~~ *10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.*

~~*[12. Regardless of whether the judgment debtor claims an exemption, any exemption to which the debtor is entitled may not be waived.]*~~

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 6.5. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 7. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➥ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits,

supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in ~~[:]~~ *and any proceeds from:*

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.

22. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

23. A tax refund received from the earned income credit provided by federal law or a similar state law.

24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons). *If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.*

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ *an executed claim of* exemption. A copy of the ~~[affidavit]~~ *claim of exemption* must be served upon the sheriff ~~[and]~~ *, the garnishee and* the judgment creditor within ~~[8]~~ *20 calendar* days after the notice of execution *or garnishment* is ~~[mailed.]~~ *served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.* The property must be ~~[returned to you]~~ *released by the garnishee or the sheriff* within ~~[5]~~ *9 judicial* days after you ~~[file]~~ *serve* the ~~[affidavit]~~ *claim of exemption upon the sheriff, garnishee and judgment creditor,* unless the ~~[judgment creditor files a motion]~~ *sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice* for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. *The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.* The hearing must be held within ~~[10]~~ *7 judicial* days after the ~~[motion]~~ *objection to the claim of exemption and notice* for a hearing is filed. *You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.*

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ *EXECUTED CLAIM OF EXEMPTION* WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE

JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~[NRS 31.249 is hereby amended to read as follows:~~

~~31.249 1. No writ of garnishment in aid of attachment may issue except on order of the court. The court may order the writ of garnishment to be issued:~~

~~(a) In the order directing the clerk to issue a writ of attachment; or~~

~~(b) If the writ of attachment has previously issued without notice to the defendant and the defendant has not appeared in the action, by a separate order without notice to the defendant.~~

~~2. The plaintiff's application to the court for an order directing the issuance of a writ of garnishment must be by affidavit made by or on behalf of the plaintiff to the effect that the affiant is informed and believes that the named garnishee:~~

~~(a) Is the employer of the defendant; or~~

~~(b) Is indebted to or has property in his possession or under his control belonging to the defendant,~~

~~and that to the best of the knowledge and belief of the affiant, the defendant's future wages, the garnishee's indebtedness or the property possessed is not by law exempt from execution. If the named garnishee is the State of Nevada, the writ of garnishment must be served upon the State Controller. *A judgment creditor shall not submit more than two applications for a writ of garnishment with respect to the same judgment for the same type of property in any calendar year upon the same account of a judgment debtor if the property is held in a financial institution. A judgment creditor who submits more than two applications may be subject to the penalties set forth in subsection 9 of NRS 21.112.*~~

~~3. The affidavit by or on behalf of the plaintiff may be contained in the application for the order directing the writ of attachment to issue or may be filed and submitted to the court separately thereafter.~~

~~4. Except as otherwise provided in this section, the grounds and procedure for a writ of garnishment are identical to those for a writ of attachment.~~

~~5. If the named garnishee is the subject of more than one writ of garnishment regarding the defendant, the court shall determine the priority and method of satisfying the claims, except that any writ of garnishment to satisfy a judgment for the collection of child support must be given first priority.]~~ *(Deleted by amendment.)*

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to *be submitted with any writ of execution, attachment or garnishment to* the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants.....
.....
.....,
or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer: .....
.....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount *of disposable earnings, as defined in NRS 31.295, that* each defendant presently earns during a pay period. *State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld. The minimum amount of disposable earnings may be determined, if the pay period is:*

Weekly: By multiplying 50 times the federal minimum hourly wage;

Biweekly: By multiplying 50 times the federal minimum hourly wage, times 2;

Semimonthly: By multiplying 50 times the federal minimum hourly wage, times 52, divided by 24; or

Monthly: By multiplying 50 times the federal minimum hourly wage, times 52, divided by 12.

State the amount that is subject to garnishment, which must not exceed 25 percent of the disposable earnings.

Answer: .....
.....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants,

or either of them, or in which .....is interested? If so, state its value, and state fully all particulars.

Answer: .....

.....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to ..... or in which .....is interested, and now in the possession or under the control of others? If so, state particulars.

Answer: .....

.....

Are you a financial institution with ~~[an]~~ a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section ~~[1]~~ 2 of this act, ~~[$2,500]~~ $2,000 or the amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section ~~[1]~~ 2 of this act or, if no such deposit has been made, $1,000 or the amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer: .....

.....

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer: .....

.....

.....

Garnishee

I (insert the name of the garnishee), ~~[do solemnly swear (or affirm)]~~ *declare under penalty of perjury* that the answers to the foregoing interrogatories by me subscribed are true ~~[.]~~ *and correct.*

.....

(Signature of garnishee)

~~[SUBSCRIBED and SWORN to before me this .... day of the month of .... of the year ....]~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit his answers to the sheriff within the time required by the writ. *The garnishee shall submit his answers to the judgment debtor within the same time.* If the garnishee fails to do so, he shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in his answer to garnishee interrogatories that he is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of $3 per pay period, not to exceed $12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of his right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~[fee]~~ *fees* described in ~~[paragraph]~~ *paragraphs (a) and* (d) of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his fees, which may be due him for services rendered by him in any suit or proceedings, he may have execution therefor in his own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 15. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~[, if they are not mingled with other money of the recipient,]~~ are exempt from

any remedy for the collection of all debts, except debts incurred for necessaries furnished to the person or his spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 16. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment provides immunity from liability to a financial institution that incorrectly determines whether money is subject to execution. It clarifies that if a judgment debtor has accounts in more than one financial institution, the writ may attach to all money in those accounts and allows the judgment debtor to claim any applicable exemptions. It lists additional exemptions provided by Nevada law but deletes a new exemption for proceeds from a private disability insurance plan. It clarifies that a constable is authorized to perform duties assigned to a sheriff, including authority with respect to a writ of execution, garnishment or attachment and it deletes language that would have prohibited a judgment creditor from submitting more than two applications for a writ under certain circumstances.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 493.

Bill read second time and ordered to third reading.

Assembly Bill No. 500.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 752.

"SUMMARY—Revises provisions relating to domestic relations. (BDR 11-1156)"

"AN ACT relating to domestic relations; revising provisions relating to adoptions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a person may consent to the adoption of his child, and the child will be relinquished either to an agency or to the person to whom consent to adopt is given, if the adoption is a specific adoption. (NRS 127.040, 127.053) Section 2 of this bill provides that, in a specific adoption, the person to whom consent is given assumes legal custody and legal responsibility for the child as soon as consent for the adoption is executed.

Section 11 of this bill ~~[revises an exemption from criminal or civil liability for certain advertising mediums which accept advertisements]~~ *requires a child-placing agency licensed by the Division of Child and Family Services of the Department of Health and Human Services to include certain information confirming its licensure in any advertisement* concerning *its* ~~[services related to adoptions from persons or agencies that are not licensed to provide such]~~ services. (NRS 127.310)

Section 14 of this bill provides that certain sections of this bill may apply retroactively and prospectively to petitions for adoption.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

A person to whom consent to adopt a child is given for a specific adoption pursuant to NRS 127.053 has, at the time the consent is executed, legal custody over the child and is legally responsible for the child until a court holds a hearing to enter an order or decree of adoption or to deny the petition pursuant to the laws of this State or another state.

Sec. 3. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, *and section 2 of this act* govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.1895, inclusive, *and section 2 of this act,* where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 127.310 is hereby amended to read as follows:

127.310 1. Except as otherwise provided in NRS 127.240, 127.283 and 127.285, any person or organization other than an agency which provides child welfare services who, without holding a valid , unrevoked license to place children for adoption issued by the Division:

(a) Places, arranges the placement of, or assists in placing or in arranging the placement of, any child for adoption or permanent free care; or

(b) Advertises in any periodical or newspaper, or by radio or other public medium, that he will place children for adoption, or accept, supply, provide or obtain children for adoption, or causes any advertisement to be published in or by any public medium soliciting, requesting or asking for any child or children for adoption,

➥ is guilty of a misdemeanor.

2. Any person who places, accepts placement of, or aids, abets or counsels the placement of any child in violation of NRS 127.280, 127.2805 and 127.2815 is guilty of a misdemeanor.

3. A periodical, newspaper, radio station or other public medium is not subject to any criminal penalty or civil liability for publishing or broadcasting an advertisement that violates the provisions of this section . ~~[unless the periodical, newspaper, radio station or other public medium knew that the advertisement violated the provisions of this section.]~~

4. A child-placing agency shall include in any advertisement concerning its services published in any periodical or newspaper or by radio or other public medium a statement which:

(a) Confirms that the child-placing agency holds a valid, unrevoked license issued by the Division; and

(b) Indicates any license number issued to the child-placing agency by the Division.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. The amendatory provisions of sections 2 and 3 of this act apply to a petition for adoption that is filed pursuant to chapter 127 of NRS before, on or after October 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.

The amendment requires a child-placing agency to include information about its license in an advertisement for its services, and deletes liability by a publication or other public medium for the validity of the agency's advertisement.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved to proceed to Unfinished Business as this time.

Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 77.

The following Assembly amendment was read:

Amendment No. 614.

"SUMMARY—Provides for the establishment of programs of teen mentoring in public high schools. (BDR 34-696)"

"AN ACT relating to education; authorizing the board of trustees of each school district to adopt a policy for a program of teen mentoring for public high schools within the school district; authorizing the principal of each public high school to establish a program of teen mentoring in accordance with the policy or a plan approved by the board of trustees of the school district; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides for the establishment of programs for teen mentoring in public high schools in this State. Specifically, this bill: (1) authorizes the board of trustees of each school district to establish a policy for a program of teen mentoring in the public high schools within the school district; (2) sets forth certain provisions that the policy for teen mentoring must include; (3) authorizes the principal of each public high school to establish such a program of teen mentoring in accordance with the policy or a plan approved by the board of trustees; (4) authorizes each board of trustees and public high school to accept gifts, grants and donations to carry out a program of teen mentoring; and (5) specifies that the provisions of this bill do not prevent a public high school from continuing to provide any similar program of teen mentoring that exists on the effective date of this bill.

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 may adopt a policy for the public high schools in the district to provide a program of teen mentoring , which may include a component of adult mentoring, designed to ~~[increase]~~ :

(a) Increase pupil participation in school activities, community activities and all levels of government ~~[.]~~ ; or

(b) Increase the ability of ninth grade pupils enrolled in high school to successfully make the transition from middle school or junior high school to high school,

➥ or both.

2. Any such policy must include, without limitation:

(a) Guidelines for establishing:

(1) Eligibility requirements for pupils who participate in the program as mentors or mentees, including, without limitation, any minimum grade level for pupils who serve as mentors and any minimum grade point average

that must be maintained by pupils who serve as mentors. The guidelines may not require a pupil who participates in the program to maintain a grade point average that is higher than the grade point average required for a pupil to participate in sports at the high school the pupil attends.

(2) Training requirements for pupils who serve as mentors.

(3) Incentives for pupils who serve as mentors.

(b) A requirement that each public high school which establishes a program for teen mentoring must also establish a committee to select each pupil mentor who participates in the program. The policy must provide that the committee may select a pupil who does not meet the general eligibility requirements for mentors if the members of the committee determine that the pupil is otherwise qualified to serve as a mentor.

(c) Any other provisions that the board of trustees deems appropriate.

~~[2.]~~ 3. If the board of trustees of a school district has adopted a policy pursuant to subsection 1, the principal of each public high school in the district may:

(a) Carry out a program of teen mentoring in accordance with the policy prescribed by the board of trustees pursuant to subsection 1;

(b) Adopt other policies for the program of teen mentoring that are consistent with this section and the policy prescribed by the board of trustees pursuant to subsection 1; and

(c) On a date prescribed by the board of trustees, submit an annual report to the board of trustees and the Legislature that sets forth a summary of:

(1) The specific activities of the program of teen mentoring; and

(2) The effectiveness of the program in increasing pupil participation in school activities, community activities and all levels of government ~~[.]~~ or in increasing the ability of ninth grade pupils to successfully make the transition from middle school or junior high school to high school, as applicable to the type of program in effect at the school.

~~[3.]~~ 4. If the board of trustees of a school district has not adopted a policy pursuant to subsection 1, the principal of a public high school in the district may carry out a program of teen mentoring and take any action described in paragraph (b) or (c) of subsection ~~[2]~~ 3 if:

(a) The principal submits to the board of trustees for its approval a plan for such a program of teen mentoring that is consistent with the provisions of this section; and

(b) The board of trustees approves the plan.

~~[4.]~~ 5. A plan submitted to a board of trustees of a school district pursuant to subsection ~~[3]~~ 4 shall be deemed approved if the board of trustees does not act upon the plan within 60 days after the date on which the board of trustees receives the plan.

~~[5.]~~ 6. The board of trustees of each school district and each public high school may apply for and accept gifts, grants and donations from any source for the support of the board of trustees or a public high school in carrying out a program of teen mentoring pursuant to the provisions of this section.

Any money received pursuant to this subsection may be used only for purposes of carrying out a program of teen mentoring pursuant to the provisions of this section.

~~*[6.]*~~ *7. This section does not preclude a board of trustees of a school district or a public high school from continuing any other similar program of teen mentoring that exists on the effective date of this act.*

Sec. 2. This act becomes effective upon passage and approval.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 77.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 163.

The following Assembly amendment was read:

Amendment No. 613.

"SUMMARY—Revises provisions governing safe and respectful learning environments in public schools to prohibit *bullying and* cyber-bullying. (BDR 34-28)"

"AN ACT relating to education; revising provisions governing safe and respectful learning environments in public schools to include a prohibition on *bullying and* cyber-bullying; requiring the standards of content and performance for courses of study in computer education and technology established by the Council to Establish Academic Standards for Public Schools to include a policy for the ethical, safe and secure use of computers and other electronic devices; revising certain prohibited acts to specifically include cyber-bullying; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Department of Education is required to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.121-388.139) Sections 1-9 of this bill revise the provisions governing safe and respectful learning environments to include a prohibition on *bullying and* cyber-bullying. (NRS 388.132, 388.133, 388.134, 388.135, 388.139)

Existing law requires the Council to Establish Academic Standards for Public Schools to establish the standards of content and performance for courses of study, including courses of study in computer education and technology. (NRS 389.520) Section 10 of this bill requires the standards of content and performance for courses in computer education and technology to include a policy for the ethical, safe and secure use of computers and other electronic devices. Section 7 of this bill requires each school district to adopt the policy for inclusion in its policy on the provision of a safe and respectful learning environment.

Existing law prohibits a person from using any means of oral, written or electronic communication to knowingly threaten to cause bodily harm or death to a pupil or school employee with the intent to: (1) intimidate, frighten, alarm or distress the pupil or school employee; (2) cause panic or civil unrest; or (3) interfere with the operation of a public school. Section 11 of this bill specifically includes the use of cyber-bullying in these prohibited acts. (NRS 392.915)

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections *1.5,* 2 and 3 of this act.

Sec. 1.5. *"Bullying" means a willful act or course of conduct on the part of one or more pupils which is not authorized by law and which exposes a pupil repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and is intended to cause and actually causes the pupil to suffer harm or serious emotional distress.*

Sec. 2. *"Cyber-bullying" means ~~[harassment or intimidation]~~ bullying through the use of electronic communication.*

Sec. 3. *"Electronic communication" means the communication of any written, verbal or pictorial information through the use of an electronic device, including, without limitation, a telephone, a cellular phone, a computer or any similar means of communication.*

Sec. 4. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.139, inclusive, *and sections 1.5, 2 and 3 of this act,* unless the context otherwise requires, the words and terms defined in NRS 388.125 and 388.129 *and sections 1.5, 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 388.132 is hereby amended to read as follows:

388.132 The Legislature declares that:

1. A learning environment that is safe and respectful is essential for the pupils enrolled in the public schools in this State to achieve academic success and meet this State's high academic standards;

2. Any form of *bullying, cyber-bullying,* harassment or intimidation in public schools seriously interferes with the ability of teachers to teach in the classroom and the ability of pupils to learn;

3. *The use of the Internet by pupils in a manner that is ethical, safe and secure is essential to a safe and respectful learning environment and is essential for the successful use of technology;*

4. The intended goal of the Legislature is to ensure that:

(a) The public schools in this State provide a safe and respectful learning environment in which persons of differing beliefs, characteristics and backgrounds can realize their full academic and personal potential;

(b) All administrators, principals, teachers and other personnel of the school districts and public schools in this State demonstrate appropriate behavior on the premises of any public school by treating other persons,

including, without limitation, pupils, with civility and respect and by refusing to tolerate *bullying, cyber-bullying*, harassment or intimidation; and

(c) All persons in public schools are entitled to maintain their own beliefs and to respectfully disagree without resorting to *bullying, cyber-bullying*, violence, harassment or intimidation; and

~~[4.]~~ *5.* By declaring its goal that the public schools in this State provide a safe and respectful learning environment, the Legislature is not advocating or requiring the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but is requiring that pupils with differing beliefs be free from abuse and harassment.

Sec. 6. NRS 388.133 is hereby amended to read as follows:

388.133 1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of *bullying, cyber-bullying*, harassment and intimidation.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; and

(b) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of *bullying, cyber-bullying*, harassment and intimidation so that pupils may realize their full academic and personal potential;

(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Sec. 7. NRS 388.134 is hereby amended to read as follows:

388.134 The board of trustees of each school district shall:

1. Adopt the policy prescribed ~~[by the Department]~~ pursuant to NRS 388.133 ~~[.]~~ *and the policy prescribed pursuant to subsection 2 of NRS 389.520.* The board of trustees may adopt an expanded policy *for one or both of the policies* if ~~[the]~~ *each* expanded policy complies with the policy prescribed ~~[by the Department.]~~ *pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.*

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the ~~[policy]~~ *policies* prescribed ~~[by the Department]~~ pursuant to NRS 388.133 ~~[.]~~ *and pursuant to subsection 2 of NRS 389.520.*

3. On or before September 1 of each year, submit a report to the Superintendent of Public Instruction that includes a description of each violation of NRS 388.135 occurring in the immediately preceding school year that resulted in personnel action against an employee or suspension or expulsion of a pupil, if any.

Sec. 8. NRS 388.135 is hereby amended to read as follows:

388.135 A member of the board of trustees of a school district, any employee of the board of trustees, including, without limitation, an administrator, principal, teacher or other staff member, or any pupil shall not engage in *bullying, cyber-bullying,* harassment or intimidation on the premises of any public school, at an activity sponsored by a public school or on any school bus.

Sec. 9. NRS 388.139 is hereby amended to read as follows:

388.139 Each school district shall include the text of the provisions of NRS 388.125 to 388.135, inclusive, and the ~~[policy]~~ *policies* adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading ~~["Harassment]~~ *"Bullying, Cyber-Bullying, Harassment* and Intimidation Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Sec. 10. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection ~~[2,]~~ *3,* based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English, including reading, composition and writing;

(2) Mathematics;

(3) Science;

(4) Social studies, which includes only the subjects of history, geography, economics and government;

(5) The arts;

(6) Computer education and technology;

(7) Health; and

(8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. *The standards for computer education and technology must include a policy for the ethical, safe and secure use of computers and other electronic devices. The policy must include, without limitation:*

(a) The ethical use of computers and other electronic devices, including, without limitation:

(1) Rules of conduct for the acceptable use of the Internet and other electronic devices; and

(2) Methods to ensure the prevention of:

(I) Cyber-bullying;

(II) Plagiarism; and

(III) The theft of information or data in an electronic form;

(b) The safe use of computers and other electronic devices, including, without limitation, methods to:

(1) Avoid harassment, cyber-bullying and other unwanted electronic communication, including, without limitation, communication with on-line predators;

(2) Recognize when an on-line electronic communication is dangerous or potentially dangerous; and

(3) Report a dangerous or potentially dangerous on-line electronic communication to the appropriate school personnel;

(c) The secure use of computers and other electronic devices, including, without limitation:

(1) Methods to maintain the security of personal identifying information and financial information, including, without limitation, identifying unsolicited electronic communication which is sent for the purpose of obtaining such personal and financial information for an unlawful purpose;

(2) The necessity for secure passwords or other unique identifiers;

(3) The effects of a computer contaminant;

(4) Methods to identify unsolicited commercial material; and

(5) The dangers associated with social networking Internet sites; and

(d) A designation of the level of detail of instruction as appropriate for the grade level of pupils who receive the instruction.

3. The Council shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The Council shall establish standards of content and performance for the grade levels selected by the Council for the other courses of study prescribed in subsection 1.

~~[3.]~~ *4.* The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

~~[4.]~~ *5.* If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board.

➥ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.

~~[5.]~~ *6.* The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.

7. As used in this section:

(a) "Computer contaminant" has the meaning ascribed to it in NRS 205.4737.

(b) "Cyber-bullying" has the meaning ascribed to it in section 2 of this act.

(c) "Electronic communication" has the meaning ascribed to it in section 3 of this act.

Sec. 11. NRS 392.915 is hereby amended to read as follows:

392.915 1. A person shall not, through the use of any means of oral, written or electronic communication, *including, without limitation, through the use of cyber-bullying,* knowingly threaten to cause bodily harm or death to a pupil or employee of a school district or charter school with the intent to:

(a) Intimidate, *harass,* frighten, alarm or distress a pupil or employee of a school district or charter school;

(b) Cause panic or civil unrest; or

(c) Interfere with the operation of a public school, including, without limitation, a charter school.

2. Unless a greater penalty is provided by specific statute, a person who violates the provisions of subsection 1 is guilty of:

(a) A misdemeanor, unless the provisions of paragraph (b) apply to the circumstances.

(b) A gross misdemeanor, if the threat causes:

(1) Any pupil or employee of a school district or charter school who is the subject of the threat to be intimidated, *harassed,* frightened, alarmed or distressed;

(2) Panic or civil unrest; or

(3) Interference with the operation of a public school, including, without limitation, a charter school.

3. As used in this section ~~[, "oral,]~~ *:*

(a) "Cyber-bullying" has the meaning ascribed to it in section 2 of this act.

(b) "Oral, written or electronic communication" includes, without limitation, any of the following:

~~[(a)]~~ *(1)* A letter, note or any other type of written correspondence.

~~[(b)]~~ *(2)* An item of mail or a package delivered by any person or postal or delivery service.

~~[(c)]~~ *(3)* A telegraph or wire service, or any other similar means of communication.

~~[(d)]~~ *(4)* A telephone, cellular phone, satellite phone, page or facsimile machine, or any other similar means of communication.

~~[(e)]~~ *(5)* A radio, television, cable, closed-circuit, wire, wireless, satellite or other audio or video broadcast or transmission, or any other similar means of communication.

~~[(f)]~~ *(6)* An audio or video recording or reproduction, or any other similar means of communication.

~~[(g)]~~ *(7)* An item of electronic mail, a modem or computer network, or the Internet, or any other similar means of communication.

Sec. 12. 1. On or before January 1, 2010, the Council to Establish Academic Standards for Public Schools shall establish the policy required by subsection 2 of NRS 389.520, as amended by section 10 of this act. In establishing the policy, the Council shall consider policies currently in use by school districts in this State.

2. On or before July 1, 2010, the board of trustees of each school district shall adopt the policy regarding the ethical, safe and secure use of computers and other electronic devices pursuant to NRS 388.134, as amended by section 7 of this act.

Sec. 13. ~~[This act becomes]~~

1. This section and sections 6, 10 and 12 of this act become effective on July 1, 2009 ~~[.]~~ *, for the purpose of adopting policies and on July 1, 2010, for all other purposes.*

2. Sections 1 to 5, inclusive, 7, 8, 9 and 11 of this act become effective on July 1, 2010.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 163.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Concurrent Resolution No. 5.

The following Assembly amendment was read:

Amendment No. 570.

"SUMMARY—Commends the Wildfire Support Group. (BDR R-605)"

SENATE CONCURRENT RESOLUTION—Commending the Wildfire Support Group in Humboldt County and encouraging the expansion of the model to other areas of this State.

WHEREAS, The State of Nevada continues to rank as one of the states most affected by wildfire in this country, and as this cycle continues to be repeated year after year, it becomes clear that relying solely on rapid response and the ability of firefighters to suppress these fires cannot adequately address the threat, especially in the rural areas of this State; and

WHEREAS, Wildlife habitats, grazing lands, watersheds and scenic resources are vulnerable, and according to a recent assessment, almost a

quarter of the communities evaluated in Nevada were ranked as having a high or extreme hazard of wildfire; and

WHEREAS, Local ranchers in Humboldt County proposed the idea of assisting the Winnemucca Field Office of the Bureau of Land Management in response to a particularly destructive fire season in 1999, which had caused sizeable resource damage and exceedingly high losses to the area's ranching industry; and

WHEREAS, The initial concept eventually became the Wildfire Support Group, composed of ranchers in Humboldt County who have been trained in basic wildland fire suppression, in cooperation with the Bureau of Land Management, to provide additional resources for initial attack on wildfires; and

WHEREAS, Members of the Wildfire Support Group are often the first on the scene of a wildfire, providing invaluable assistance in improving the ability of the Bureau of Land Management to locate, reach and subdue wildfires in remote areas and saving valuable time and resources for local land management agencies and fire departments; and

WHEREAS, In addition to assisting local governments in using their personnel and resources more effectively in response to wildfires, the Wildfire Support Group assists in efforts to preemptively reduce the risk of such hazards by reducing the amount of fuels present on public lands by means of fuels management grazing plans; and

WHEREAS, Constructed on a cost-share basis with the Bureau of Land Management, the ~~[Wildlife]~~ *Wildfire* Support Group's grazing projects simultaneously benefit ranchers' livestock operations and reduce hazardous fuel loads in the wildland-urban interface; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That members of the 75th Nevada Legislature hereby commend the actions of the Wildfire Support Group and recognize that the ~~[Wildlife]~~ *Wildfire* Support Group serves as an exemplary model of local residents cooperating with governmental entities and working to improve their community; and be it further

RESOLVED, That the Legislature hereby encourages residents and governmental entities in other areas of this State to adopt similar models; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Wildfire Support Group, the Board of County Commissioners of Humboldt County, the Winnemucca Field Office of the Bureau of Land Management and the State Director of the Bureau of Land Management in Nevada.

Senator Parks moved that the Senate concur in the Assembly amendment to Senate Concurrent Resolution No. 5.

Motion carried.

Resolution ordered enrolled.

Senate Bill No. 54.

The following Assembly amendment was read:

Amendment No. 647.

"SUMMARY—Revises the qualifications of the State Health Officer. (BDR 40-336)"

"AN ACT relating to public health; revising provisions governing the State Health Officer; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Health Officer to be a citizen of the United States and to be licensed, or eligible for licensure, as a physician or administrative physician in Nevada. (NRS 439.090) Section 1 of this bill revises those qualifications by requiring the State Health Officer to be a citizen of the United States, to have not less than 5 years' experience in population-based health care and to be either: (1) licensed or eligible for a license as a physician or administrative physician in Nevada; or (2) a *licensed* physician or *licensed* administrative physician ~~[who has]~~ *in another state with* a master's or doctoral degree in public health or a related field. Section 2 of this bill provides that if the State Health Officer is not licensed to practice medicine in this State, he shall not, while carrying out his duties, engage in the practice of medicine. (NRS 439.130)

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

Section 1. NRS 439.090 is hereby amended to read as follows:

439.090 1. The State Health Officer must:

(a) Be a citizen of the United States ~~[.]~~ *;*

(b) *Have not less than 5 years' experience in population-based health care; and*

(c) Be ~~[licensed,]~~ *:*

(1) Licensed in good standing or eligible for ~~[licensure,]~~ *a license* as a physician or administrative physician in Nevada ~~[.]~~ *; or*

(2) ~~[A]~~ Licensed in good standing as a physician or administrative physician ~~[who has]~~ by the District of Columbia or any state or territory of the United States and have a master's degree or doctoral degree in public health or a related field.

2. The Administrator must have 2 years' experience, or the equivalent, in a responsible administrative position in:

(a) A full-time county or city health facility or department; or

(b) A major health program at a state or national level.

3. As used in this section, "population-based health care" means the use of various approaches to medical care for specific groups or populations based upon common demographic characteristics, risk factors or diseases.

Sec. 2. NRS 439.130 is hereby amended to read as follows:

439.130 1. The State Health Officer shall:

(a) Enforce all laws and regulations pertaining to the public health.

(b) Investigate causes of disease, epidemics, source of mortality, nuisances affecting the public health, and all other matters related to the health and life of the people, and to this end he may enter upon and inspect any public or private property in the State.

(c) Direct the work of subordinates and may authorize them to act in his place and stead.

(d) Perform such other duties as the Director may, from time to time, prescribe.

➥ *If the State Health Officer is not licensed to practice medicine in this State, he shall not, in carrying out his duties as the State Health Officer, engage in the practice of medicine.*

2. The Administrator shall direct the work of the Health Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

Sec. 3. Notwithstanding the amendatory provisions of section 1 of this act, any person who, on the effective date of this act, is serving as the State Health Officer and who is otherwise qualified to serve as the State Health Officer on that date may continue to serve in that capacity until his successor is appointed by the Director of the Department of Health and Human Services pursuant to chapter 439 of NRS.

Sec. 4. This act becomes effective upon passage and approval.

Senator Wiener moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 54.

Remarks by Senator Wiener.

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

This bill deals with the State Health Officer, and there were qualifications added to the measure that caused some concerns.

Motion carried.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 12:13 p.m.

SENATE IN SESSION

At 12:21 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 18, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 33.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 33—Memorializes the former Director of the Legislative Counsel Bureau, Arthur J. Palmer.

WHEREAS, The members of the Nevada Legislature were deeply saddened to learn of the recent passing of Arthur "Art" Judson Palmer, Jr., former Director of the Legislative Counsel Bureau, on February 14, 2009; and

WHEREAS, Born in New Jersey on December 10, 1919, Art Palmer drove to Reno in 1939, in his air-cooled Franklin, to attend the University of Nevada where he received his bachelor of science degree from the College of Agriculture in 1943 and later, his master of arts degree in political geography from Columbia University in New York in 1950; and

WHEREAS, Art Palmer worked for the Legislative Counsel Bureau under contract as early as 1948 and began full-time work with the Bureau on December 30, 1960, serving as Research Assistant, then Research Director and eventually as Director of the Legislative Counsel Bureau from March 1, 1972, until his retirement on October 30, 1984; and

WHEREAS, Under the leadership of Arthur J. Palmer, the Legislative Counsel Bureau was modernized into five independent divisions, which continue to the present as the Administrative, Audit, Fiscal Analysis, Legal and Research Divisions, and through the hiring of top-quality attorneys, auditors, fiscal and research analysts, and support staff, the Legislative Counsel Bureau became known as the consummate professional and independent agency for the Legislative Branch of Nevada State Government; and

WHEREAS, Art Palmer understood the benefits of affiliating with other state legislatures through the Council of State Governments and the National Conference of State Legislatures, serving with distinction on NCSL's Staff Committee, Executive Committee and Nominating Committee and as Staff Vice President, and he received the 1994 John Everhardt "Trooper" Award and the 1998 Legislative Staff Achievement Award; and

WHEREAS, Arthur Judson Palmer was married in 1940 to Alison Mae Cady, an exceptional elementary school teacher who taught in a number of Nevada communities, and together they traveled throughout the United States and abroad and were happily married for 68 years until Alison's passing on June 22, 2008; and

WHEREAS, The many years of love, dedication and devotion that Art Palmer demonstrated to his wife, family and friends, as well as the many years dedicated to public service, the State of Nevada and the Nevada Legislature, are hereby commended, honored and shall forever be remembered; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Nevada Legislature hereby recognize Arthur J. Palmer for his many years of contributions and service to this State and offer their deepest condolences to his family; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Art and Alison's beloved daughter Cherie Garrison, her husband Bob and granddaughter Kristin Lieby.

Senator Raggio moved the adoption of the resolution.

Remarks by Senators Raggio and Coffin.

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

SENATOR RAGGIO:

Thank you, Mr. President. It is important that we pause today and remember Art Palmer, a unique and dedicated man. Art Palmer was the father of the modern-day Legislative Counsel Bureau (LCB). There are many of us here who worked with Art during the time he was with the Legislature.

When Art was appointed Director, in 1972, the Bureau had only three divisions. They were the Legal Division, the Research Division and a combined Fiscal and Audit Division. Most administrative functions were handled by agencies of the Executive Branch. Art became the Director of the Legislature in 1972, the year before I started here at the Senate. Art worked with the Legislature in 1973 to make Audit into a separate division and to combine the Research

Division with the Fiscal Division. In 1977, those two functions were then divided into separate divisions. In 1979, Art worked with the Legislature to add a fifth LCB division, which became the Administrative Division. That Division assumed the responsibility for the functions and services that had been provided by the Executive Branch for many years, including accounting, payroll, buildings and grounds, security, mailing and communications. The Legislature became a separate branch of Nevada government. By the time of Art's retirement in 1984, the Bureau had evolved into the independent structure that is almost identical to the one we have today.

Art Palmer was an interesting person. He was a man who loved geography and history. He contributed original maps, research and writings concerning the geopolitical development of Nevada to the publication many of us are familiar with, the *Political History of Nevada.* It was through his efforts to modernize important State records and documents that he discovered the description in the Nevada Constitution that was never changed to reflect the 1867 addition by Congress of over 12,000 square miles of territory including all of current Clark County and the southern parts of Esmeralda, Lincoln and Nye Counties. As a result of this discovery, the Legislature proposed a constitutional amendment in 1979 and 1981 which was ratified by the voters in the General Election of 1982 to conform Nevada's constitutional boundaries to its actual boundary. If that had not been approved by the voters, Clark County would not be a part of this State.

Prior to being hired to a full-time position in the LCB, in December, 1960, Art Palmer held a variety of interesting jobs. Some of the earlier jobs included working on cattle trains in Elko, teaching geography at the University of Nevada, working with the Nevada Department of Highways, the Department of Employment Security and teaching at public schools in Duckwater, Carson City, Henderson and Las Vegas.

Part of Art's love of geography manifested itself in the form of a passion for long drives in one of his large cars exploring the highways of America. He made the pages of a number of record books by driving through every county in America including the Louisiana parishes and the Alaska boroughs. In the 1980s, he completed this odyssey when he arrived at his final county in Alaska. He had to hire a plane to fly him to the last county, Bristol Bay Borough. He had pictures taken at every county seat in the country. His love of geography, maps and travel gave him an insight into American life. He once commented that his travels throughout the United States gave him the perfect opportunity to observe and to give things a proper perspective. We are all indebted to Arthur J. Palmer. He had the energy to shape the LCB into a highly respected, independent and professional staff unit in Nevada state government and in doing so, he gave the members of the Legislature the resources that we enjoy, today, needed to fulfill the Separation of Powers Provisions which have been part of our Constitution since 1864.

His wife, Alison, died last year, and Art died this year in February. The members of the Nevada Assembly and Senate along with the staff of the LCB gratefully acknowledge and honor the many contributions of Art Palmer to this State and in particular to the Nevada Legislature and the LCB.

SENATOR COFFIN:

Art Palmer was a true gentleman in many ways. He was a quiet presence on the floor when I came to the Legislature in 1983. He never imposed his will on any member. He brought this Legislature into a modern era.

Because of the love he had of automobiles, Art had a fleet of vehicles. He often loaned his old Cadillacs to members, as they needed.

I continued to build a friendship with Art long after he left LCB. He came to NCSL meetings after his retirement. He did so just to say "hello" to people he had known for a long time. It was a labor of love for him to come to the meetings to visit with old timers from some of the other states. He would often share a tip with me about what another state might be doing about a particularly thorny issue. Because he visited every county in every state, he talked to other politicians and figured out what we were doing right or wrong and passed on what we did right. He had a wonderful influence.

Art left LCB quietly, never one to draw attention to himself. He performed his duty as we wish all public servants could. I wish to thank his family for giving us this opportunity to say a few words about this gentleman.

Resolution adopted.
Resolution ordered transmitted to the Assembly.

Senator Horsford moved that the Senate recess until 3 p.m.
Motion carried.

Senate in recess at 12:37 p.m.

SENATE IN SESSION

At 4:18 p.m.
President Krolicki presiding.
Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 371.
Bill read third time.
Roll call on Senate Bill No. 371:
YEAS—21.
NAYS—None.

Senate Bill No. 371 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 382.
Bill read third time.
Roll call on Senate Bill No. 382:
YEAS—21.
NAYS—None.

Senate Bill No. 382 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 416.
Bill read third time.
Roll call on Senate Bill No. 416:
YEAS—21.
NAYS—None.

Senate Bill No. 416 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bills Nos. 262, 474; Senate Joint Resolution No. 10 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

Senator Care moved that Assembly Bill No. 473 be taken from the Secretary's desk and placed on the General File.

Motion carried.

Senator Care moved that Assembly Bill No. 243 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Coffin moved that the motion whereby Assembly Bill No. 548 was referred to the Committee on Taxation be rescinded.

Motion carried.

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

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 20.

Bill read third time.

Roll call on Assembly Bill No. 20:

YEAS—21.

NAYS—None.

Assembly Bill No. 20 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 40.

Bill read third time.

Roll call on Assembly Bill No. 40:

YEAS—21.

NAYS—None.

Assembly Bill No. 40 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 46.

Bill read third time.

Roll call on Assembly Bill No. 46:

YEAS—21.

NAYS—None.

Assembly Bill No. 46 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 63.

Bill read third time.

Roll call on Assembly Bill No. 63:

YEAS—21.

NAYS—None.

Assembly Bill No. 63 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 75.

Bill read third time.

Roll call on Assembly Bill No. 75:

YEAS—21.

NAYS—None.

Assembly Bill No. 75 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 100.

Bill read third time.

Roll call on Assembly Bill No. 100:

YEAS—21.

NAYS—None.

Assembly Bill No. 100 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 116.

Bill read third time.

Roll call on Assembly Bill No. 116:

YEAS—21.

NAYS—None.

Assembly Bill No. 116 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 117.

Bill read third time.

Roll call on Assembly Bill No. 117:

YEAS—21.

NAYS—None.

Assembly Bill No. 117 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 119.

Bill read third time.

Roll call on Assembly Bill No. 119:

YEAS—12.

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

Assembly Bill No. 119 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 123.
Bill read third time.
Roll call on Assembly Bill No. 123:
YEAS—21.
NAYS—None.

Assembly Bill No. 123 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 154.
Bill read third time.
Roll call on Assembly Bill No. 154:
YEAS—21.
NAYS—None.

Assembly Bill No. 154 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 173.
Bill read third time.
Roll call on Assembly Bill No. 173:
YEAS—21.
NAYS—None.

Assembly Bill No. 173 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 193.
Bill read third time.
Roll call on Assembly Bill No. 193:
YEAS—21.
NAYS—None.

Assembly Bill No. 193 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 204.
Bill read third time.
Roll call on Assembly Bill No. 204:
YEAS—21.
NAYS—None.

Assembly Bill No. 204 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senator Washington moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 4:34 p.m.

SENATE IN SESSION

At 4:36
President Krolicki presiding.
Quorum present.

Assembly Bill No. 206.
Bill read third time.
Roll call on Assembly Bill No. 206:
YEAS—21.
NAYS—None.

Assembly Bill No. 206 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 230.
Bill read third time.
Roll call on Assembly Bill No. 230:
YEAS—21.
NAYS—None.

Assembly Bill No. 230 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 233.
Bill read third time.
Roll call on Assembly Bill No. 233:
YEAS—21.
NAYS—None.

Assembly Bill No. 233 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 239.
Bill read third time.
Roll call on Assembly Bill No. 239:
YEAS—21.
NAYS—None.

Assembly Bill No. 239 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 251.
Bill read third time.
Roll call on Assembly Bill No. 251:
YEAS—21.
NAYS—None.

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

Assembly Bill No. 307.
Bill read third time.
Roll call on Assembly Bill No. 307:
YEAS—17.
NAYS—Care, Lee, McGinness, Washington—4.

Assembly Bill No. 307 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 327.
Bill read third time.
Roll call on Assembly Bill No. 327:
YEAS—21.
NAYS—None.

Assembly Bill No. 327 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 329.
Bill read third time.
Roll call on Assembly Bill No. 329:
YEAS—20.
NAYS—Carlton.

Assembly Bill No. 329 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 333.
Bill read third time.
Roll call on Assembly Bill No. 333:
YEAS—21.
NAYS—None.

Assembly Bill No. 333 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 348.
Bill read third time.
Roll call on Assembly Bill No. 348:
YEAS—21.
NAYS—None.

Assembly Bill No. 348 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 369.
Bill read third time.
Roll call on Assembly Bill No. 369:
YEAS—21.
NAYS—None.

Assembly Bill No. 369 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 380.
Bill read third time.
Roll call on Assembly Bill No. 380:
YEAS—21.
NAYS—None.

Assembly Bill No. 380 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 393.
Bill read third time.
Roll call on Assembly Bill No. 393:
YEAS—21.
NAYS—None.

Assembly Bill No. 393 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 403.
Bill read third time.
Roll call on Assembly Bill No. 403:
YEAS—21.
NAYS—None.

Assembly Bill No. 403 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 416.

Bill read third time.

Roll call on Assembly Bill No. 416:

YEAS—21.

NAYS—None.

Assembly Bill No. 416 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 4:46 p.m.

SENATE IN SESSION

At 4:48 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 471.

Bill read third time.

Senator Schneider disclosed that he is on the board of directors of a credit union.

Senator Woodhouse disclosed that she is on the board of directors of a credit union.

Remarks by Senators Amodei and Care.

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

SENATOR AMODEI:

I would like to ask the Chair of Judiciary if we have an answer as to whether we have excluded credit unions in this legislation.

SENATOR CARE:

We did. If you look at the statutory definition of a financial institution, under NRS 363A.050 it specifically does not include a credit union.

Roll call on Assembly Bill No. 471:

YEAS—21.

NAYS—None.

Assembly Bill No. 471 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 473.
Bill read third time.
Roll call on Assembly Bill No. 473:
YEAS—18.
NAYS—Amodei, McGinness, Washington—3.

Assembly Bill No. 473 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 496.
Bill read third time.
Roll call on Assembly Bill No. 496:
YEAS—20.
NAYS—Raggio.

Assembly Bill No. 496 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 508.
Bill read third time.
Roll call on Assembly Bill No. 508:
YEAS—21.
NAYS—None.

Assembly Bill No. 508 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 528.
Bill read third time.
Roll call on Assembly Bill No. 528:
YEAS—21.
NAYS—None.

Assembly Bill No. 528 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 538.
Bill read third time.
Roll call on Assembly Bill No. 538:
YEAS—21.
NAYS—None.

Assembly Bill No. 538 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 311 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 370.

Bill read second time.

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

Amendment No. 754.

"SUMMARY—Makes various changes relating to the legislative process. (BDR 17-1030)"

"AN ACT relating to the state legislative process; clarifying the authority to direct the Fiscal Analysis Division of the Legislative Counsel Bureau to obtain a fiscal note on a bill or resolution; eliminating certain requirements relating to the reprinting of bills; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill clarifies the term "presiding officer" for each house of the Legislature for the purpose of directing the Fiscal Analysis Division of the Legislative Counsel Bureau to obtain a fiscal note concerning a legislative bill or resolution.

Section 3 of this bill repeals the requirement that all bills amended by either house be reprinted immediately. (NRS 218.320) ~~[, 218.330)]~~ Section 2 of this bill removes a related provision which requires a comparison of the printed bill or resolution to the amendment before the third reading of the bill or resolution. (NRS 218.300) *Section 2.5 of this bill removes another similar provision that authorizes the Legislature to dispense with the reprinting of a bill or resolution in certain circumstances. (NRS 218.330)*

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this section and NRS 218.272 to 218.2758, inclusive, ~~[and section 1 of this act,]~~ unless the context otherwise requires, "presiding officer" means:

1. In the Assembly, the Speaker of the Assembly or another member of the Assembly who is performing the functions of the Speaker during the absence or inability of the Speaker.

2. In the Senate, the Majority Leader of the Senate or another member of the Senate who is performing the functions of the Majority Leader during the absence or inability of the Majority Leader.

Sec. 2. NRS 218.300 is hereby amended to read as follows:

218.300 ~~[1.]~~ Upon receipt of the printed copies of each bill and resolution, the Legislative Counsel shall cause one copy to be designated as the original and bound in a cover, which copy must be delivered to the Secretary of the Senate or to the Chief Clerk of the Assembly. The Legislative Counsel shall determine an appropriate method for designating the original bills and resolutions to ensure that the authenticity of the original is preserved and shall notify the Secretary of the Senate, the Chief Clerk of the Assembly and the Secretary of State of the method selected.

~~[2. Before the third reading and final passage of the bill or resolution, the Legislative Counsel shall carefully compare the printed or reprinted copy of the bill or resolution with the duplicate copy thereof and the original amendments as adopted by the house and, if the printed or reprinted copy is found to be in all respects correct, the Legislative Counsel shall certify to the correctness of the bound copy and shall deliver the same to the Secretary of the Senate or to the Chief Clerk of the Assembly, as the case may be, whereupon the bound copy, so compared and certified, is ready for third reading and final passage.]~~

Sec. 2.5. NRS 218.330 is hereby amended to read as follows:

218.330 Whenever a bill or resolution which shall have been passed in one House shall be amended in the other, it shall immediately be reprinted as amended by the House making such amendment or amendments. Such amendment or amendments shall be attached to the bill or resolution so amended and endorsed "adopted" and such amendment or amendments, if concurred in by the House in which such bill or resolution originated, shall be endorsed "concurred in" and such endorsement shall be signed by the Secretary of the Senate or by the Chief Clerk of the Assembly, as the case may be. ~~[However, the reprinting of the bill may be dispensed with on motion carried by a two thirds majority of the members present, but such amendment must be concurred in by the House in which such bill originated. If the reprinting is so dispensed with, the amendments may be inserted by hand in the printed bill, but the authenticity of each amendment shall be established by endorsement, such endorsement to consist of initials signed on the margin near each amendment by the Secretary of the Senate or by the Chief Clerk of the Assembly, as the case may be.]~~

Sec. 3. NRS 218.320 ~~[and 218.330 are]~~ *is* hereby repealed.

Sec. 4. This act becomes effective upon passage and approval.

TEXT OF REPEALED ~~[SECTIONS]~~ *SECTION*

218.320 Reprinting of bill upon amendment: Marking of new and old matter; when reprinting dispensed with; insertion of amendments by hand. All bills amended by either House shall be immediately reprinted. New matter shall be indicated by underscoring in the typewritten or other machine-produced copy and italics in the printed copy. Matter to be omitted shall be indicated by brackets in the typewritten or other machine-produced copy and brackets or strike-out type in the printed copy. When a bill is amended in either House, the first or previous markings shall be omitted.

However, the reprinting of the bill may be dispensed with on motion carried by a two-thirds majority of the members present. If the reprinting is so dispensed with, the amendments may be inserted by hand in the printed bill, but the authenticity of each amendment shall be established by endorsement, such endorsement to consist of initials signed on the margin near each amendment by the Secretary of the Senate or by the Chief Clerk of the Assembly, as the case may be.

~~[218.330 Reprinting of bill when passed in one House and amended in the other; Attachment and endorsement of amendment; when reprinting dispensed with; insertion of amendments by hand. Whenever a bill or resolution which shall have been passed in one House shall be amended in the other, it shall immediately be reprinted as amended by the House making such amendment or amendments. Such amendment or amendments shall be attached to the bill or resolution so amended and endorsed "adopted" and such amendment or amendments, if concurred in by the House in which such bill or resolution originated, shall be endorsed "concurred in" and such endorsement shall be signed by the Secretary of the Senate or by the Chief Clerk of the Assembly, as the case may be. However, the reprinting of the bill may be dispensed with on motion carried by a two-thirds majority of the members present, but such amendment must be concurred in by the House in which such bill originated. If the reprinting is so dispensed with, the amendments may be inserted by hand in the printed bill, but the authenticity of each amendment shall be established by endorsement, such endorsement to consist of initials signed on the margin near each amendment by the Secretary of the Senate or by the Chief Clerk of the Assembly, as the case may be.]~~

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Amendment No. 754 restores and revises a section of the measure concerning the legislative amendment process that was proposed for deletion in the original bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 415.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 824.

"SUMMARY—Establishes for the next biennium the ~~[maximum]~~ amount to be paid to the Public Employees' Benefits Program for group insurance for certain active and retired public officers and employees. (BDR S-1191)"

"AN ACT relating to programs for public personnel; establishing for the next biennium the ~~[maximum]~~ amount to be paid to the Public Employees' Benefits Program for group insurance for certain active and retired public

officers and employees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill establishes the ~~[maximum]~~ amount of the State's share of the costs of premiums or contributions for group insurance for state officers and employees who participate in the Public Employees' Benefits Program. (NRS 287.044, 287.0445, 287.046) Section 2 of this bill also establishes the base amount that is used to calculate the share of the costs of premiums or contributions for group insurance that is required to be paid by the state and local governments for retired public officers and employees. (NRS 287.023, 287.046)

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

Section 1. 1. For the purposes of NRS 287.044, 287.0445 and 287.046, the State's share of the cost of premiums or contributions for group insurance for each active state officer or employee who elects to participate in the Public Employees' Benefits Program is:

(a) For the Fiscal Year 2009-2010, ~~[not more than $549.00]~~ *$626.52* per month.

(b) For the Fiscal Year 2010-2011, ~~[not more than $596.75]~~ *$680.84* per month.

2. If the amount of the State's share pursuant to this section exceeds the actual premium or contribution for the plan of the Public Employees' Benefits Program that the state officer or employee selects less any amount paid by the state officer or employee toward the premium or contribution, the balance must be credited to the Fund for the Public Employees' Benefits Program created pursuant to NRS 287.0435, which may be used to pay a portion of the premiums or contributions for persons that are eligible to participate in the Public Employees' Benefits Program through such a state officer or employee.

Sec. 2. For the purposes of NRS 287.023 and 287.046, the base amount for the share of the cost of premiums or contributions for group insurance for each person who has retired with state service and continues to participate in the Public Employees' Benefits Program is:

1. For the Fiscal Year 2009-2010, ~~[not more than $383.19]~~ *$317.30* per month.

2. For the Fiscal Year 2010-2011, ~~[not more than $307.34]~~ *$344.30* per month.

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

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Mathews.

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

The amendment establishes the amount of the State's share of the costs of premiums or contributions for group insurance for state officers and employees who participate in the Public

Employees' Benefits Program. A few words were changed. In section 1, line 5 "not more than $549" was changed. In section 2, line 11 and 12 the same wording was changed.

Amendment adopted.

Bill ordered reprinted and engrossed.

Senator Mathews moved that all rules be suspended, reading so far had considered second reading, rules further suspended and that Senate Bill No. 415 be declared an emergency measure under the Constitution and placed on third reading and final passage upon return from reprint.

Remarks by Senator Mathews.

Motion carried unanimously.

Assembly Bill No. 101.

Bill read second time.

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

Amendment No. 701.

"SUMMARY—Revises provisions governing the support of children. (BDR 38-340)"

"AN ACT relating to the support of children; authorizing each county in this State to participate in the Program for the Enforcement of Child Support; requiring each county that participates in the Program to pay the cost of the Program in that county; revising certain provisions governing the administration and enforcement of the Program; deleting provisions relating to the placement and confidentiality of certain records concerning the support of a dependent child; ~~[requiring]~~ *revising provisions governing a review by* a district court ~~[to review, on the record,]~~ *of* certain recommendations of a master; revising provisions governing the failure of an employer to deliver money that is withheld from the income of an employee for child support; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes each county in this State to participate in the Program for the Enforcement of Child Support created under federal law. If a county participates in the Program, the county must pay for the cost of the Program in that county. Section 1 also authorizes a county that participates in the Program to withdraw from the Program after providing a notice of withdrawal to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~[Section 2 of this bill provides that any payment of public assistance made by the Division for the support of a child creates a debt against the responsible parent, regardless of any court order for custody or support of the child to the contrary. (NRS 425.360)]~~

Section 3 of this bill specifies that the Administrator of the Division or his designee is responsible for and is required to supervise the Program. (NRS 425.365)

Sections 5, 7, 10, 14 and 15 of this bill specify that the approval by a district court of a recommendation made by a master concerning the support of a dependent child must be made in accordance with certain procedural requirements. (NRS 425.382, 425.383, 425.3836, 425.540)

Sections 6, 11, 12, 19 and 21 of this bill delete provisions of existing law that require a master, after making a recommendation for the support of a dependent child, or a district court to ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is paid are placed in the records relating to the matter and remain confidential. (NRS 425.3828, 425.3844, 425.3855, 125.230, 125B.055)

Section 8 of this bill authorizes a master who conducts a hearing relating to the support of a dependent child to conduct the hearing by telephone or by any audiovisual or other electronic means outside the judicial district in which the master is appointed. (NRS 425.3832)

Section 9 of this bill provides that if a district court reviews a recommendation of a master concerning the support of a dependent child, the review must be conducted on the record of the case before the master ~~.~~ ~~[.]~~ *unless the district court, in extraordinary circumstances as determined by the district court, grants a trial de novo.* (NRS 425.3834)

Under existing law, a master who makes a recommendation concerning the support of a dependent child must furnish the recommendation to each party in the case before the master. Each party may then file an objection to the recommendation within 10 days after receiving the recommendation. If a notice of objection is not filed, the district court must accept the recommendation and may enter judgment thereon. Section 11 of this bill provides that if a notice of objection is not filed, the recommendation of the master shall be deemed approved by the district court and the clerk of the court may file the recommendation. (NRS 425.3844)

Section 13 of this bill provides that a financial institution which is doing business in Nevada and which receives notification of a lien against a responsible parent from an agency for the enforcement of child support located in another state is required to encumber all assets held by the financial institution on behalf of the responsible parent and surrender those assets upon the enforcement of the lien. Section 13 also provides immunity from liability for the agency located in another state for disclosing information and providing assets to certain other persons. (NRS 425.460)

Sections 16 and 17 of this bill set forth penalties that may be imposed against an employer who fails to deliver to the appropriate enforcing authority any money that the employer is required to withhold from an employee's wages for child support owed by the employee. The penalties include, without limitation, the payment of punitive damages to the person to whom the child support is owed. (NRS 31A.095, 31A.120)

Section 18 of this bill deletes provisions of existing law that require a court that grants a decree of divorce to ensure that the social security numbers of both parties to the decree are provided to the Division. (NRS 125.130)

Section 22 of this bill revises provisions governing the amounts paid by a parent for medical support for a child pursuant to a court order requiring the payment of that support. (NRS 125B.085)

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

Section 1. Chapter 425 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each county may participate in the Program. If a county participates in the Program, the county shall pay the cost of the Program in that county. Any services provided by the county under the Program must be provided in accordance with:

(a) Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any regulations adopted pursuant thereto;

(b) Any regulations adopted pursuant to NRS 425.365; and

(c) A contract entered into with the Division for that purpose.

2. If a county participates in the Program pursuant to subsection 1, the county may, on or before September 1 of each even-numbered year, elect to withdraw from the Program by submitting a notice of withdrawal to the Division. If a county submits a notice of withdrawal pursuant to this subsection, the withdrawal becomes effective on July 1 of the next following year.

Sec. 2. ~~[NRS 425.360 is hereby amended to read as follows:~~

~~425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, [whether or not]~~ ~~*regardless of:*~~

~~*(a) Any court order for custody or support to the contrary, including, without limitation, an order for joint physical custody; or*~~

~~*(b) Whether* the parent received prior notice that his child was receiving public assistance.~~

~~2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including , *without limitation*, an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. § 1167(1), service benefit plan, self-insured plan or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for spousal support, a family maintenance order or an alimony order, whether or~~

~~not allocated to the benefit of the child on the basis of providing necessaries for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.~~

~~3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.~~

~~4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.~~

~~5. If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:~~

~~(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and~~

~~(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.~~

~~*6. As used in this section, "joint physical custody" means the physical custody of a dependent child for which the time spent by the dependent child with each responsible parent or with the responsible parent and a custodian of the child is equal.]*~~ *(Deleted by amendment.)*

Sec. 3. NRS 425.365 is hereby amended to read as follows:

425.365 *1.* The Administrator *or his designee is responsible for and shall supervise the Program, subject to administrative supervision by the Director of the Department of Health and Human Services.*

2. The Administrator may adopt such regulations and take such actions as are necessary to carry out the provisions of this chapter.

Sec. 4. NRS 425.370 is hereby amended to read as follows:

425.370 *Subject to administrative supervision by the Director of the Department of Health and Human Services pursuant to NRS 425.365:*

1. Whenever the Division provides public assistance on behalf of a child, the Division and the prosecuting attorney shall take appropriate action to carry out the Program with regard to that child.

2. As to any other child, the Division and the prosecuting attorney shall, when such action is required by the Social Security Act , ~~[(]~~ 42 U.S.C. §§ 301 et seq. , ~~[),]~~ take appropriate action to carry out the Program.

Sec. 5. NRS 425.382 is hereby amended to read as follows:

425.382 1. Except as otherwise provided in NRS 425.346, the Chief may proceed pursuant to NRS 425.3822 to 425.3852, inclusive, after:

(a) Payment of public assistance by the Division; or

(b) Receipt of a request for services to carry out the Program.

2. Subject to approval by the district court ~~[,]~~ *pursuant to NRS 425.3844,* a master may:

(a) Take any action authorized pursuant to chapter 130 of NRS, including any of the actions described in subsection 2 of NRS 130.305.

(b) Except as otherwise provided in chapter 130 of NRS and NRS 425.346:

(1) Issue and enforce an order for the support of a dependent child, and modify or adjust such an order in accordance with NRS 125B.145;

(2) Require coverage for health care of a dependent child;

(3) Establish paternity;

(4) Order a responsible parent to comply with an order for the support of a dependent child, specifying the amount and the manner of compliance;

(5) Order the withholding of income;

(6) Determine the amount of any arrearages and specify a method of payment;

(7) Enforce orders by civil or criminal contempt, or both;

(8) Set aside property for satisfaction of an order for the support of a dependent child;

(9) Place liens and order execution on the property of the responsible parent;

(10) Order a responsible parent to keep the master informed of his current residential address, telephone number, employer, address of employment and telephone number at the place of employment;

(11) Issue a bench warrant for a responsible parent who has failed after proper notice to appear at a hearing ordered by the master and enter the bench warrant in any local and state computer system for criminal warrants;

(12) Order the responsible parent to seek appropriate employment by specified methods;

(13) Order the responsible parent to participate in a program intended to resolve issues that prevent the responsible parent from obtaining employment, including, without limitation, a program for the treatment of substance abuse or a program to address mental health issues;

(14) Upon the request of the Division, require a responsible parent to:

(I) Pay any support owed in accordance with a plan approved by the Division; or

(II) Participate in such work activities, as that term is defined in 42 U.S.C. § 607(d), as the Division deems appropriate;

(15) Award reasonable attorney's fees and other fees and costs; and

(16) Grant any other available remedy.

Sec. 6. NRS 425.3828 is hereby amended to read as follows:

425.3828 1. If a written response setting forth objections and requesting a hearing is received by the office issuing the notice and finding of financial responsibility within the specified period, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the parent by regular mail.

2. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall:

(a) Include in that recommendation:

(1) If the paternity of the dependent child is established by the recommendation, a declaration of that fact.

(2) The amount of monthly support to be paid, including directions concerning the manner of payment.

(3) The amount of arrearages owed.

(4) Whether coverage for health care must be provided for the dependent child.

(5) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[,]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(6) The names of the parents or legal guardians of the child.

(7) The name of the person to whom, and the name and date of birth of the dependent child for whom , support is to be paid.

(8) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(9) A statement that objections to the recommendation may be filed with the district court and served upon the other party within 10 days after receipt of the recommendation.

(b) Ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is to be paid are ~~[.~~

~~(1) Provided]~~ *provided* to the enforcing authority.

~~[(2) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

3. The parent must be sent a copy of the recommendation for the support of a dependent child by regular mail addressed to the last known address of the parent, or if applicable, the last known address of the attorney for the parent.

4. The recommendation for the support of a dependent child is final upon approval by the district court pursuant to NRS 425.3844. The Chief may take

action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, and the master enters a recommendation for the support of a dependent child, the court may grant relief from the recommendation on the grounds set forth in paragraph (b) of Rule 60 of the Nevada Rules of Civil Procedure.

Sec. 7. NRS 425.383 is hereby amended to read as follows:

425.383 1. After the entry of a recommendation for the support of a dependent child by the master that has been approved by the district court ~~[,]~~ *pursuant to NRS 425.3844,* or after entry of an order for the support of a dependent child by a district court regarding which the Chief is authorized to proceed pursuant to NRS 425.382 to 425.3852, inclusive, the responsible parent, the person entitled to support or the enforcing authority may move for the amount of the child support being enforced to be modified or adjusted in accordance with NRS 125B.145.

2. The motion must:

(a) Be in writing.

(b) Set out the reasons for the modification or adjustment.

(c) State the address of the moving party.

(d) Be served by the moving party upon the responsible parent or the person entitled to support, as appropriate, by first-class mail to the last known address of that person.

3. The moving party shall mail or deliver a copy of the motion and the original return of service to the Chief.

4. The Chief shall set the matter for a hearing within 30 days after the date of receipt of the motion unless a stipulated agreement between the parties is reached. The Chief shall send to the parties and person with physical custody of the dependent child a notice of the hearing by first-class mail to the last known address of those persons.

5. A motion for modification or adjustment requested pursuant to this section does not prohibit the Chief from enforcing and collecting upon the existing order for support of a dependent child unless so ordered by the district court.

6. The only support payments that may be modified or adjusted pursuant to this section are monthly support payments that:

(a) A court of this State has jurisdiction to modify pursuant to chapter 130 of NRS; and

(b) Accrue after the moving party serves notice that a motion has been filed for modification or adjustment.

7. The party requesting the modification or adjustment has the burden of showing a change of circumstances and good cause for the modification or

adjustment, unless the request is filed in accordance with subsection 1 of NRS 125B.145.

Sec. 8. NRS 425.3832 is hereby amended to read as follows:

425.3832 1. Except as otherwise provided in this chapter, a hearing conducted pursuant to NRS 425.382 to 425.3852, inclusive, must be conducted in accordance with the provisions of this section by a qualified master appointed pursuant to NRS 425.381.

2. Subpoenas may be issued by:

(a) The master.

(b) The attorney of record for the office.

➥ Obedience to the subpoena may be compelled in the same manner as provided in chapter 22 of NRS. A witness appearing pursuant to a subpoena, other than a party or an officer or employee of the Chief, is entitled to receive the fees and payment for mileage prescribed for a witness in a civil action.

3. Except as otherwise provided in this section, the master need not observe strict rules of evidence ~~[,]~~ but shall apply those rules of evidence prescribed in NRS 233B.123.

4. The affidavit of any party who resides outside of the judicial district is admissible as evidence regarding the duty of support, any arrearages and the establishment of paternity. The master may continue the hearing to allow procedures for discovery regarding any matter set forth in the affidavit.

5. The physical presence of a person seeking the establishment, enforcement, modification or adjustment of an order for the support of a dependent child or the establishment of paternity is not required.

6. A verified petition, an affidavit, a document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under NRS 51.065 if given in person, is admissible in evidence if given under oath by a party or witness residing outside of the judicial district.

7. A copy of the record of payments for the support of a dependent child, certified as a true copy of the original by the custodian of the record, may be forwarded to the master. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.

8. Copies of bills for testing for paternity, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before the hearing, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

9. Documentary evidence transmitted from outside of the judicial district by telephone, telecopier or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

10. The master may ~~[permit]~~ *:*

(a) Conduct a hearing by telephone, audiovisual means or other electronic means outside of the judicial district in which he is appointed.

(b) Permit a party or witness residing outside of the judicial district to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location outside of the judicial district.

➥ The master shall cooperate with courts outside of the judicial district in designating an appropriate location for the *hearing*, deposition or testimony.

11. If a party called to testify at a hearing refuses to answer a question on the ground that the testimony may be self-incriminating, the master may draw an adverse inference from the refusal.

12. A privilege against the disclosure of communications between husband and wife does not apply.

13. The defense of immunity based on the relationship of husband and wife or parent and child does not apply.

Sec. 9. NRS 425.3834 is hereby amended to read as follows:

425.3834 1. Upon issuance by a district court of an order approving a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, the Chief shall enforce and collect upon the order, including arrearages.

2. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, is final upon approval by the district court pursuant to NRS 425.3844. Upon such approval, the recommendation is in full force and effect while any judicial review is pending unless the recommendation is stayed by the district court.

3. The district court may review ~~[, pursuant to the rules adopted therefor by the district judges of the judicial district in which the court is located,]~~ a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive. *If a review is conducted, the district court ~~[shall]~~ :*

(a) Shall, except as otherwise provided in paragraph (b), review the recommendation on the record of the case before the master.

(b) May, in extraordinary circumstances as determined by the district court, grant a trial de novo.

Sec. 10. NRS 425.3836 is hereby amended to read as follows:

425.3836 1. After the issuance of an order for the support of a dependent child by a court, the Chief may issue a notice of intent to enforce the order. The notice must be served upon the responsible parent in the manner prescribed for service of summons in a civil action or mailed to the responsible parent by certified mail, restricted delivery, with return receipt requested.

2. The notice must include:

(a) The names of the person to whom support is to be paid and the dependent child for whom support is to be paid.

(b) The amount of monthly support the responsible parent is required to pay by the order for support.

(c) A statement of the arrearages owed pursuant to the order for support.

(d) A demand that the responsible parent make full payment to the enforcing authority within 14 days after the receipt or service of the notice.

(e) A statement that the responsible parent may be required to provide coverage for the health care of the dependent child when coverage is available to the parent at a reasonable cost.

(f) A statement of any requirements the Division will request pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[,]~~ regarding a plan for the payment of support by the responsible parent or the participation of the responsible parent in work activities.

(g) A statement that if the responsible parent objects to any part of the notice of intent to enforce the order, he must send to the office that issued the notice a written response within 14 days after the date of receipt of service that sets forth any objections and includes a request for a hearing.

(h) A statement that if full payment is not received within 14 days or a hearing has not been requested in the manner provided in paragraph (g), the Chief is entitled to enforce the order and that the property of the responsible parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(i) A reference to NRS 425.382 to 425.3852, inclusive.

(j) A statement that the responsible parent is responsible for notifying the office of any change of address or employment.

(k) A statement that if the responsible parent has any questions, he may contact the appropriate office or consult an attorney.

(l) Such other information as the Chief finds appropriate.

3. If a written response setting forth objections and requesting a hearing is received within the specified period by the office issuing the notice of intent to enforce the order, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the responsible parent by regular mail. If a written response and request for hearing is not received within the specified period by the office issuing the notice, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall include in that recommendation:

(a) The amount of monthly support to be enforced, including directions concerning the manner of payment.

(b) The amount of arrearages owed and the manner of payment.

(c) Whether coverage for health care must be provided for the dependent child.

(d) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[,]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(e) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, the withholding of wages, garnishment, liens and execution on liens.

4. After the district court approves the recommendation for the support of a dependent child, the recommendation is final. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. This section does not prevent the Chief from using other available remedies for the enforcement of an obligation for the support of a dependent child at any time.

6. The master may hold a hearing to enforce a recommendation for the support of a dependent child after the recommendation has been entered and approved by the district court ~~[.]~~ *pursuant to NRS 425.3844.* The master may enter a finding that the parent has not complied with the order of the court and may recommend to the district court that the parent be held in contempt of court. The finding and recommendation is effective upon review and approval of the district court.

Sec. 11. NRS 425.3844 is hereby amended to read as follows:

425.3844 1. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, must be furnished to each party or his attorney at the conclusion of the proceedings or as soon thereafter as possible.

2. Within 10 days after receipt of the recommendation, any party may file with the district court and serve upon the other parties a notice of objection to the recommendation. The notice must include:

(a) A copy of the master's recommendation;

(b) The results of any blood tests or tests for genetic identification examined by the master;

(c) A concise statement setting forth the reasons that the party disagrees with the master's recommendation, including any affirmative defenses that must be pleaded pursuant to the Nevada Rules of Civil Procedure;

(d) A statement of the relief requested;

(e) The notice and finding of financial responsibility if the Chief issued such a notice and finding; and

(f) Any other relevant documents.

3. ~~[The district court shall:~~

~~(a)]~~ If *, within 10 days after receipt of the recommendation,* a notice of objection is ~~[not]~~ *:*

(a) Not filed, ~~[accept]~~ the recommendation entered by the master ~~[, including a recommendation establishing paternity, unless clearly erroneous,]~~ *shall be deemed approved by the district court,* and *the clerk of the district court may file the recommendation pursuant to subsection 7 and* judgment may be entered thereon; or

(b) ~~[If a notice of objection is filed within the 10-day period,]~~ *Filed, the district court shall* review the matter pursuant to NRS 425.3834.

4. A party who receives a notice of objection pursuant to subsection 2 is not required to file an answer to that notice. The district court shall review each objection contained in the notice.

5. If a notice of objection includes an objection to a recommendation establishing paternity, the enforcement of any obligation for the support of the child recommended by the master must, upon the filing and service of the notice, be stayed until the district court rules upon the determination of paternity. The obligation for the support of the child continues to accrue during the consideration of the determination of paternity and must be collected as arrears after the completion of the trial if the court approves the recommendation of the master.

6. If a recommendation entered by a master , ~~[pursuant to NRS 425.382 to 425.3852, inclusive,]~~ including a recommendation establishing paternity, *is deemed approved by the district court pursuant to paragraph (a) of subsection 3 and the recommendation* modifies or adjusts a previous order for support issued by any district court in this State, that district court ~~[shall review the recommendation and approve or reject the recommendation issued]~~ *must be notified of the recommendation* by the master.

7. Upon approval by the district court of a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, a copy of the recommendation, with the approval of the court endorsed thereon, must be filed:

(a) In the office of the clerk of the district court;

(b) If the order of the district court approving the recommendation of the master modifies or adjusts a previous order issued by any district court in this State, with the original order in the office of the clerk of that district court; and

(c) With any court that conducts a proceeding related thereto pursuant to the provisions of chapter 130 of NRS.

8. A district court that approves a recommendation pursuant to this section shall ensure that, before the recommendation is filed pursuant to subsection 7, the social security numbers of the parents or legal guardians of the child are ~~[:~~

~~(a) Provided]~~ *provided* to the enforcing authority.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

9. Upon the approval and filing of the recommendation as provided in subsection 7, the recommendation has the force, effect and attributes of an order or decree of the district court, including, but not limited to, enforcement by supplementary proceedings, contempt of court proceedings, writs of execution, liens and writs of garnishment.

Sec. 12. NRS 425.3855 is hereby amended to read as follows:

425.3855 A district court that enters an order pursuant to NRS 425.382 to 425.3852, inclusive, or an order approving a recommendation for the

support of a dependent child made by a master shall ensure that the social security numbers of the parents or legal guardians of the child are ~~[:~~

~~1. Provided]~~ *provided* to the enforcing authority.

~~[2. Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

Sec. 13. NRS 425.460 is hereby amended to read as follows:

425.460 1. The Administrator shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

2. A financial institution doing business in this State shall:

(a) Cooperate with the Administrator in carrying out subsection 1.

(b) Use the system to provide to the Division for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification, and other identifying information for each responsible parent who maintains an account at the financial institution, as identified by the Division by name and social security number or other number assigned for taxpayer identification.

(c) In response to the receipt from the Division *or an agency for the enforcement of child support located in another state* of:

(1) Notification of a lien against a responsible parent which:

(I) Arises pursuant to NRS 125B.142; or

(II) Is entitled to full faith and credit pursuant to NRS 125B.144,

➥ encumber ~~[such]~~ *all* assets held by the financial institution on behalf of the responsible parent ~~[as may be required by the Chief.]~~ *and surrender those assets upon the enforcement of the lien pursuant to those sections.*

(2) A notice of attachment pursuant to subsection 2 of NRS 425.470, surrender to the Chief such assets held by the financial institution on behalf of the responsible parent as may be required by the Chief.

(d) Except as otherwise provided in paragraph (c), in response to the receipt of notice of a lien which is entitled to full faith and credit pursuant to NRS 125B.144 or notice of a levy on such a lien, encumber or surrender, as the case may be, such assets held by the financial institution on behalf of the responsible parent as may be required to enforce the lien.

➥ A financial institution doing business in this State which receives from the Division *or an agency for the enforcement of child support located in another state* a notice of lien, notice of attachment or notice of levy on a lien is not required to encumber or surrender any assets received by the financial institution on behalf of the responsible parent after the financial institution received the notice of lien, notice of attachment or notice of levy on a lien.

3. A financial institution may not be held liable in any civil or criminal action for:

(a) Any disclosure of information to the Division *or an agency for the enforcement of child support located in another state* pursuant to this section.

(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section.

(c) Any other action taken in good faith to comply with the requirements of this section.

4. If a court issues an order to return to a responsible parent any assets surrendered by a financial institution pursuant to subsection 2, the Division *or an agency for the enforcement of child support located in another state* is not liable to the responsible parent for any of those assets that have been provided to another person or agency in accordance with the order for the payment of support.

Sec. 14. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,

➥ and the district court issues an order approving the recommendation of the master ~~[,]~~ *pursuant to NRS 425.3844,* the court shall provide a copy of the order to all agencies that issue professional, occupational or recreational licenses, certificates or permits.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional, occupational or recreational license, certificate or permit to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, the professional, occupational or recreational licenses issued to the person by that agency will be automatically suspended. Such an order must not apply to a license, certificate or permit issued by the Department of Wildlife or the State Land Registrar if that license, certificate or permit expires less than 6 months after it is issued.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 15. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person who is issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,

➥ and the district court issues an order approving the recommendation of the master ~~[,]~~ *pursuant to NRS 425.3844,* the court shall provide a copy of the order to all agencies that issue professional or occupational licenses, certificates or permits pursuant to title 54 of NRS.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, any professional or occupational license, certificate or permit issued pursuant to title 54 of NRS to the person by that agency will be automatically suspended.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 16. NRS 31A.095 is hereby amended to read as follows:

31A.095 1. If an employer ~~[wrongfully]~~ *:*

(a) Wrongfully refuses to withhold income as required pursuant to NRS 31A.025 to 31A.190, inclusive, after receiving a notice to withhold income that was sent by certified mail pursuant to subsection 2 of NRS 31A.070 ~~[,]~~ *;*

(b) Fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080; or ~~[knowingly]~~

(c) Knowingly misrepresents the income of an employee,

➥ the enforcing authority may apply for and the court may issue an order directing the employer to appear and show cause why he should not be subject to the penalty prescribed in subsection 2 of NRS 31A.120.

2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required , *failed*

to deliver money to the enforcing authority as required or knowingly misrepresented an employee's income:

(a) May order the employer to comply with the requirements of NRS 31A.025 to 31A.190, inclusive;

(b) May order the employer to provide accurate information concerning the employee's income;

(c) May fine the employer pursuant to subsection 2 of NRS 31A.120; and

(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the obligor's income ~~[.]~~ *or failed to deliver to the enforcing authority.*

Sec. 17. NRS 31A.120 is hereby amended to read as follows:

31A.120 1. It is unlawful for an employer to use the withholding of income to collect an obligation of support as a basis for refusing to hire a potential employee, discharging the employee or taking disciplinary action against him. Any employer who violates this section shall hire or reinstate the employee with no loss of pay or benefits, is liable for any payments of support not withheld ~~[,]~~ and shall be fined $1,000. If an employee prevails in an action based on this section, the employer is liable, in an amount not less than $2,500, for payment of the employee's costs and attorney's fees incurred in that action.

2. If an employer ~~[wrongfully]~~ *:*

(a) Wrongfully refuses to withhold from the income of an obligor as required pursuant to NRS 31A.025 to 31A.190, inclusive ~~[,]~~ *;*

(b) Fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080; or ~~[knowingly]~~

(c) Knowingly misrepresents the income of the employee,

➥ he shall pay the amount he refused to withhold *or failed to deliver* to the enforcing authority and may be ordered to pay punitive damages to the person to whom support is owed in an amount not to exceed $1,000 for each pay period he failed to withhold income as required *, failed to deliver money to the enforcing authority as required* or knowingly misrepresented the income of the employee.

Sec. 18. NRS 125.130 is hereby amended to read as follows:

125.130 1. A judgment or decree of divorce granted pursuant to the provisions of this chapter is a final decree.

2. Whenever a decree of divorce from the bonds of matrimony is granted in this State by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties.

3. A court that grants a decree of divorce pursuant to the provisions of this section shall ensure that the social security numbers of both parties are ~~[:~~

~~(a) Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(b) Placed]~~ *placed* in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

4. In all suits for divorce, if a divorce is granted, the court may, for just and reasonable cause and by an appropriate order embodied in its decree, change the name of the wife to any former name which she has legally borne.

Sec. 19. NRS 125.230 is hereby amended to read as follows:

125.230 1. The court in such actions may make such preliminary and final orders as it may deem proper for the custody, control and support of any minor child or children of the parties.

2. A court that enters an order pursuant to subsection 1 for the support of any minor child or children shall ensure that the social security numbers of the parties are ~~[~~:

~~(a) Provided]~~ *provided* to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

Sec. 20. ~~[NRS 125.510 is hereby amended to read as follows:~~

~~125.510 1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section ,~~ [and] ~~chapter 130 of NRS~~ [:] ~~*and NRS 425.360:*~~

~~(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and~~

~~(b) At any time , modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.~~

~~2. The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.~~

~~2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.~~

~~3. Any order for custody of a minor child or children of a marriage entered by a court of another state may, subject to the jurisdictional requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.~~

~~4. A party may proceed pursuant to this section without counsel.~~

~~5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.~~

~~6. All orders authorized by this section must be made in accordance with the provisions of chapter 125A of NRS and must contain the following language:~~

~~PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.~~

~~7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention on the Civil Aspects of International Child Abduction of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.~~

~~8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:~~

~~(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.~~

~~(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.~~

~~9. Except where a contract providing otherwise has been executed pursuant to NRS 123.080, the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:~~

~~(a) Upon the death of the person to whom the order was directed; or~~

~~(b) When the child reaches 18 years of age if he is no longer enrolled in high school, or otherwise, when he reaches 19 years of age.~~

~~10. As used in this section, a parent has "significant commitments in a foreign country" if he:~~

~~(a) Is a citizen of a foreign country;~~

~~(b) Possesses a passport in his name from a foreign country;~~

~~(c) Became a citizen of the United States after marrying the other parent of the child; or~~

~~(d) Frequently travels to a foreign country.]~~ *(Deleted by amendment.)*

Sec. 21. NRS 125B.055 is hereby amended to read as follows:

125B.055 1. A court that, on or after October 1, 1998, issues or modifies an order in this State for the support of a child shall ~~[:~~

~~(a) Obtain]~~ *obtain* and provide to the Division of Welfare and Supportive Services of the Department of Health and Human Services such information regarding the order as the Division of Welfare and Supportive Services determines is necessary to carry out the provisions of 42 U.S.C. § 654a.

~~[(b) Ensure that the social security numbers of the child and the parents of the child are placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

2. Within 10 days after a court of this State issues an order for the support of a child, each party to the cause of action shall file with the ~~[court that issued the order and the]~~ Division of Welfare and Supportive Services:

(a) His social security number;

(b) His residential and mailing addresses;

(c) His telephone number;

(d) His driver's license number; and

(e) The name, address and telephone number of his employer.

➥ Each party shall update the information filed with the ~~[court and the]~~ Division of Welfare and Supportive Services pursuant to this subsection within 10 days after that information becomes inaccurate.

3. The Division of Welfare and Supportive Services shall adopt regulations specifying the particular information required to be provided pursuant to subsection 1 to carry out the provisions of 42 U.S.C. § 654a.

Sec. 22. NRS 125B.085 is hereby amended to read as follows:

125B.085 1. Except as otherwise provided in NRS 125B.012, every court order for the support of a child issued or modified in this State on or after June 2, 2007, must include a provision specifying that one or both parents are required to provide medical support for the child and any details relating to that requirement.

2. As used in this section, "medical support" includes, without limitation, coverage for health care under a plan of insurance ~~[,]~~ *that is reasonable in cost and accessible*, including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses. *For the purpose of this subsection:*

(a) Payments of cash for medical support or the costs of coverage for health care under a plan of insurance are "reasonable in cost" if:

(1) In the case of payments of cash for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or

(2) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of the parent.

(b) Coverage for health care under a plan of insurance is "accessible" if the plan:

(1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

Sec. 23. (Deleted by amendment.)

Sec. 24. 1. This section and sections 1 to 14, inclusive, and 16 to 23, inclusive, of this act become effective on October 1, 2009.

2. Section 14 of this act expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

3. Section 15 of this act becomes effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

Senator Wiener moved the adoption of the amendment.

Remarks by Senators Wiener and Raggio.

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

SENATOR WIENER:

Amendment No. 701 to Assembly Bill No. 101. deletes the authority to create a debt against the responsible parent for any payment of public assistance made by the Division of Welfare and Supportive Services for the support of a child, regardless of any court order for custody or support of the child to the contrary, and it provides that a district court, in extraordinary circumstances, as determined by the district court may grant a trial de novo in cases reviewing the recommendation of the master concerning the support of a dependent child.

SENATOR RAGGIO:

The amendment strikes out a section that says, "a parent is no longer going to be responsible where the public assistance is given to the child." Is that the case? If so, why?

SENATOR WIENER:

We are working on an additional amendment for this bill. I would be happy to respond to that and to any additional questions that may come at that time.

SENATOR RAGGIO:

To suggest that if a child is supported through public assistance that a parent should not be responsible for that debt, if there is an explanation for that, I would appreciate hearing it.

Senator Wiener moved that Assembly Bill No. 101 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Assembly Bill No. 309.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 693.

"SUMMARY—Revises provisions relating to the crime of stalking. (BDR 15-994)"

"AN ACT relating to crimes; revising provisions relating to the crime of stalking; increasing the penalties for the crime of stalking; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the safety of a ~~[third person]~~ *member of the person's family or household* and which actually causes a victim to feel such fear. Section 1 also increases the penalty for a first offense for the crime of stalking from a misdemeanor to a gross misdemeanor and makes a subsequent offense a category D felony. Additionally, section 1 adds text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

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

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated , ~~[or]~~ harassed ~~[,]~~ *or fearful for the safety of a ~~[third person,]~~ member of the person's family or household,* and that actually causes the victim to feel terrorized, frightened, intimidated , ~~[or]~~ harassed ~~[,]~~ *or fearful for the safety of a ~~[third person,]~~ member of the victim's family or household,* commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a *gross* misdemeanor.

(b) For any subsequent offense, is guilty of a ~~[gross misdemeanor.]~~ *category D felony and shall be punished as provided in NRS 193.130.*

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site , ~~[or]~~ electronic mail , *text messaging* or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(c) "Network" has the meaning ascribed to it in NRS 205.4745.

(d) "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

(e) *"Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.*

(f) "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site , ~~[or]~~ electronic mail , *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site , ~~[or]~~ electronic mail , *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to

200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment replaces all references to stalking of a "third person" with stalking of "a member of the victim's family or household."

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

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

Motion carried.

Senate in recess at 5:02 p.m.

SENATE IN SESSION

At 5:03 p.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 234.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 841.

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

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

Legislative Counsel's Digest:

Under existing law, a short-term lessor of passenger cars is required to collect from its customers a governmental services fee of 6 percent and a recovery surcharge fee of 4 percent of the adjusted total cost of leasing the car. The lessor is allowed to retain a portion of the money from the recovery surcharge fee as reimbursement of its costs to license and register its vehicles, and is required to remit the remaining amount of that fee, and the full amount of the 6 percent governmental services fee, to the State. (NRS 482.313) Section 6 of this bill increases the amount of the governmental services fee from 6 to 10 percent and eliminates the 4 percent recovery surcharge fee. In place of that fee, section 8 of this bill authorizes a short-term lessor to impose an additional charge on each lease to allow the lessor to recover the full amount of its vehicle licensing costs. Section 8 also authorizes a short-term lessor to impose additional charges to recover other costs that the lessor incurs as a condition of doing business, such as concession fees that the lessor must pay to an airport or other facility for the privilege of operating at the facility, and to recover the amount of any fees that the lessor pays on behalf of the short-term lessee. Section 8 also requires that the short-term lessor ~~[must separately identify and]~~ clearly disclose the amount of each additional charge in the ~~[quotation or other statement of estimated charges for the lease of the car and in the]~~ lease agreement. (NRS 482.3158)

Existing law provides that, with certain exceptions, no policy of motor vehicle liability insurance may be delivered or issued for delivery in this State unless it provides uninsured vehicle coverage to the persons insured under the policy. (NRS 690B.020) Section 9 of this bill amends the definition of "uninsured motor vehicle" to include a leased passenger car for which the short-term lessor has provided liability coverage up to the statutory minimum amounts, but which is operated by a short-term lessee who does not have liability coverage in at least the statutory minimum statutory amounts.

Section 10 of this bill repeals a provision of existing law that requires a short-term lessor to: (1) advertise, quote and charge a rate for leasing a passenger car that, with certain exceptions, includes the entire amount that a short-term lessee must pay to lease the car; and (2) clearly disclose in the advertisement or quotation the terms of any mileage conditions relating to the advertised or quoted rate. (NRS 482.31575)

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

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

Sec. 2. *"Vehicle licensing costs" means:*

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

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

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

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

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

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

(a) Retain the amount collected; and

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

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

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

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

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

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(a) The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the passenger cars leased by him; and~~

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

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

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

Sec. 7.5. NRS 482.31575 is hereby amended to read as follows:

482.31575 1. ~~[A]~~ *Except as otherwise provided in subsection 2, a* short-term lessor shall advertise, quote and charge a rate for leasing a passenger car ~~[that]~~ *which* includes the entire amount *that a short-term lessee must pay to lease the car for the period to which the rate applies,* except ~~[the]~~ taxes, *charges for mileage and* any fees paid to airports ~~[and any charges for mileage, that a short-term lessee must pay to lease the car for the period to which the rate applies.]~~ *, including, without limitation, any concession fees which the short-term lessor pays to do business at an airport and which he charges to the short-term lessee.*

2. *The requirements of subsection 1 do not apply to fees charged pursuant to paragraph (a) or (b) of subsection 1 of NRS 482.313 or additional charges imposed pursuant to subsection 1 of NRS 482.3158 which are included in the quotation of an estimated total price for the short-term lease or which are separately identified and clearly disclosed in the lease agreement.*

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

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

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

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

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

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

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

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

(f) For any authorized driver in addition to the short-term lessee but shall not, except as otherwise provided in this paragraph, charge more than $10 per

full or partial 24-hour period for such an additional authorized driver. The monetary amount set forth in this paragraph must be adjusted for each fiscal year that begins on or after July 1, 2008, by adding to that amount the product of that amount multiplied by the percentage increase in the Consumer Price Index West Urban for All Urban Consumers (All Items) between the calendar year ending on December 31, 2005, and the calendar year immediately preceding the fiscal year for which the adjustment is made. The Department shall, on or before March 1 of each year, publish the adjusted amount for the next fiscal year on its website or otherwise make that information available to short-term lessors.

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

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

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

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

2. *The short-term lessor of a passenger car that wishes to impose an additional charge pursuant to ~~[this section must separately identify and clearly disclose the amount of the charge in the quotation or other statement of estimated charges for the lease of the passenger car and in the lease agreement. The short-term lessor shall not collect from a short-term lessee the amount of any additional charge that the lessor has failed to identify and disclose as required pursuant to this section.]~~ paragraph (g) or (h) of subsection 1:*

(a) Must, at the time the lease commences, provide the short-term lessee with a lease agreement which clearly discloses all charges for the entire lease, excluding charges that cannot be determined at the time the lease commences; and

(b) Must:

(1) At the time the short-term lessee makes the reservation for the short-term lease of the passenger car, provide a good faith estimate of the total of all charges for the entire lease, excluding mileage charges and charges for optional items that cannot be determined based upon the information provided by the short-term lessee; or

(2) At the time the short-term lessor provides a price quote or estimate for the short-term lease of the passenger car, disclose the existence of any vehicle licensing costs and any other separately stated additional charge.

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

(a) Any surcharges required for fuel.

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

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

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

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

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

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

2. The amount of coverage to be provided must be not less than the minimum limits for liability insurance for bodily injury provided for under chapter 485 of NRS, but may be in an amount not to exceed the coverage for bodily injury purchased by the policyholder.

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

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

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

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

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

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

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

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

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

(g) Used by a short-term lessee if:

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

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

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

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

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

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

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

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

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

Sec. 10. ~~[NRS 482.31575 is hereby repealed.]~~ *(Deleted by amendment.)*

~~TEXT OF REPEALED SECTION~~

~~482.31575 Advertisement of lease: Disclosure of certain information required.~~

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

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

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Mathews.

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

This bill changes the following fees and provisions related to short-term leases of passenger cars. It increases the governmental service fees. It eliminates the 4-percent recovery surcharges. It establishes provisions requiring the leaser to make good-faith estimations. It authorizes the imposition of additional chargers to recover costs incurred by the short-term leaser. It requires the short-term leaser to separately and clearly disclose certain additional charges in any advertisement or statement of estimated charges within the agreement.

Amendment adopted.

Bill ordered reprinted and reengrossed.

Senator Mathews moved that Senate Bill No. 234 be placed on the General File upon return from reprint.

Motion carried.

Senate Bill No. 318.

Bill read third time.

Roll call on Senate Bill No. 318:

YEAS—21.

NAYS—None.

Senate Bill No. 318 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 358.

Bill read third time.

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

Amendment No. 666.

"SUMMARY—Revises provisions related to energy. (BDR 58-1146)"

"AN ACT relating to energy; *creating the Renewable Energy and Energy Efficiency Authority; establishing the position of the Nevada Energy*

Commissioner; revising provisions related to energy and state and residential property; revising provisions related to public utility rates; revising provisions related to capacity and incentives in certain renewable energy programs; *requiring the Public Utilities Commission of Nevada to adopt regulations authorizing electric utilities to recover certain costs;* authorizing local governing bodies to establish *improvement* districts ~~[to finance loans]~~ for the construction and installation of certain renewable energy ~~[installations and]~~ *projects and* energy efficiency ~~[improvements on residential property; making an appropriation;]~~ *projects; abolishing the Task Force for Renewable Energy and Energy Conservation; transferring authority for the administration of the Trust Fund for Renewable Energy and Energy Conservation from the Task Force to the Authority;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1.5 of this bill requires a portion of any federal stimulus money to be used for the state energy reduction plan for state buildings. (NRS 701.215) This section also requires certain biannual reports regarding the plan.]~~

Section 1.19 of this bill creates the Renewable Energy and Energy Efficiency Authority. Sections 1.73 and 1.75 of this bill set forth certain duties of the Authority. Section 1.73 transfers the authority for administration of the Trust Fund for Renewable Energy and Energy Conservation from the Task Force for Renewable Energy and Energy Conservation to the Authority.

Section 1.21 of this bill creates the position of the Nevada Energy Commissioner. The Commissioner is the head of the Authority. Sections 1.21-1.25, 1.55-1.59, 1.63, 1.67-1.71, 1.77 and 1.79 of this bill set forth the powers and duties of the Commissioner and transfer certain duties from the Director of the Office of Energy to the Commissioner.

Section 1.27 of this bill creates the State and Local Government Panel on Renewable and Efficient Energy, which will advise the Commissioner and the Authority on issues relating to the viability and progress of energy efficiency and renewable energy retrofit projects at public buildings and schools. Section 1.35 of this bill creates the New Energy Industry Task Force, which will advise the Commissioner and the Authority on measures to promote the development of renewable energy and energy efficiency projects in this State.

Sections 1.47-1.53 and 1.61 of this bill revise the powers and duties of the Director of the Office of Energy.

Section 11.7 of this bill reduces the amount of the mill tax which is available for the use of the Public Utilities Commission of Nevada and authorizes the levying and assessment of a portion of the mill tax against electric utilities for the use of the Authority and the Office of Energy, in amounts determined by the Legislature, or the Interim Finance Committee if the Legislature is not in session. Section 20.7 of this bill requires the Commissioner and the Director of the Office of Energy to apply for and

accept any money available pursuant to the American Recovery and Reinvestment Act of 2009.

Sections ~~[2, 3, 5, 6, 8,]~~ *1,* 83-9 and 20 of this bill revise provisions related to *the administration of and the* capacity and incentives in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.200, 701B.260, 701B.590, 701B.620, 701B.840, 701B.850)

Section 3 of this bill provides that for each program year for the period beginning July 1, 2010, and ending on June 30, 2021, the total capacity of the Solar Energy Systems Incentive Program increases by 9 percent per program year, which additional amount of capacity must be approved for distributed generation systems. Section 2 of this bill requires the Commission to adopt regulations authorizing a utility to recover the reasonable costs incurred in carrying out and administering the installation of such distributed generation systems. Section 20.1 of this bill requires the Commission to make certain reports to the Legislature concerning the Solar Program.

Section 11 of this bill revises provisions governing the allocation of certain money for a program to improve energy conservation and energy efficiency in certain residential properties. (NRS 702.275)

Section 11.1 of this bill authorizes the Commission, within the limits of Legislative authorization, to fix the salaries of certain professional, technical and operational personnel.

Section 11.3 of this bill requires the Commission to adopt regulations authorizing an electric utility to recover a portion of its lost revenues that is attributable to decreases in customer consumption and loads that are associated with the implementation by the electric utility of energy efficiency and conservation programs approved by the Commission.

Section 12 of this bill amends provisions related to rates of public utilities. (NRS 704.110)

~~[Section 1 of this bill requires the Director of the Office of Energy to adopt regulations establishing a list of renewable energy installations and energy efficiency improvements that are suitable for residential property. Section 16.5]~~

Sections 18.1-18.9 of this bill ~~[authorizes]~~ *authorize* the governing body of a county, city or town to establish ~~[a district to finance loans to owners of residential property within the district to assist the owners in]~~ *an improvement district for* the construction and installation of *a* renewable energy ~~[installations and]~~ *project or an* energy efficiency ~~[improvements that are determined to be suitable by the Director.]~~ *project.*

Section 19 of this bill amends provisions related to tracking the use of energy in buildings owned by the State or occupied by a state agency. (NRS 331.095)

~~[Section 20.5 of this bill appropriates $25,000 to the Interim Finance Committee for allocation to the Office of Energy to hire a qualified,~~

~~independent consultant to act as a liaison between the Office of Energy, the Public Utilities Commission of Nevada and providers of electric service in this State with regard to the implementation of the system of portfolio energy credits.]~~

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

Section 1. ~~[Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The Director shall adopt regulations establishing a list of the types of renewable energy installations and energy efficiency improvements which the Director determines are suitable for residential property for the purposes of section 16.5 of this act.*~~

~~*2. As used in this section:*~~

~~*(a) "Energy efficiency improvement" has the meaning ascribed to it in section 16.5 of this act.*~~

~~*(b) "Renewable energy installation" has the meaning ascribed to it in section 16.5 of this act.]~~ *(Deleted by amendment.)*

Sec. 1.11. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.13 to 1.41, inclusive, of this act.

Sec. 1.13. "Authority" means the Renewable Energy and Energy Efficiency Authority created by section 1.19 of this act.

Sec. 1.15. "Commissioner" means the Nevada Energy Commissioner appointed pursuant to section 1.21 of this act.

Sec. 1.17. "Panel" means the State and Local Government Panel on Renewable and Efficient Energy created by section 1.27 of this act.

Sec. 1.19. 1. The Renewable Energy and Energy Efficiency Authority is hereby created. The Commissioner is the head of the Authority.

2. The Authority may request assistance from the Public Utilities Commission of Nevada regarding the use of any resources of the Commission in general.

Sec. 1.21. 1. The Governor shall appoint the Nevada Energy Commissioner as the head of the Authority, subject to confirmation by the Legislature, or the Legislative Commission if the Legislature is not in session.

2. The Commissioner:

(a) Is in the unclassified service of the State;

(b) Serves at the pleasure of the Governor; and

(c) Must have experience and demonstrated expertise in one or more of the following fields:

(1) Financing of energy projects;

(2) Energy generation projects;

(3) Energy transmission projects;

(4) Professional engineering related to energy efficiency; or

(5) Renewable energy.

3. The Commissioner may, within the limits of legislative appropriations or authorizations:

(a) Employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of his duties and the operation of the Authority may require;

(b) Employ, or retain on a contract basis, legal counsel who shall:

(1) Be counsel and attorney for the Commissioner and the Authority in all actions, proceedings and hearings; and

(2) Generally aid the Authority in the performance of its duties; and

(c) Employ such additional personnel as may be required to carry out the duties of the Authority, who must be in the classified service of the State.

4. A person employed by the Commissioner pursuant to this section must be qualified by training and experience to perform the duties of his employment.

5. The Commissioner and the persons employed by the Commissioner shall not have any conflict of interest relating to the performance of their duties.

Sec. 1.23. The Commissioner shall:

1. Utilize all available public and private means to:

(a) Provide information to the public about issues relating to energy and to explain how conservation of energy and its sources may be accomplished; and

(b) Work with educational and research institutions, trade associations and any other public and private entities in this State to create a database for information on technological development, financing opportunities and federal and state policy developments regarding renewable energy and energy efficiency.

2. Encourage the development of any sources of renewable energy and any energy projects which will benefit the State and any measures which conserve or reduce the demand for energy or which result in more efficient use of energy, including, without limitation, by:

(a) Identifying appropriate areas in this State for the development of sources of renewable energy, based on:

(1) Assessments of solar, wind and geothermal potential;

(2) Evaluations of natural resource constraints;

(3) Current electric transmission infrastructure and capacity; and

(4) The feasibility of the construction of new electric transmission lines;

(b) Working with renewable energy developers to locate their projects within appropriate areas of this State, including, without limitation, assisting the developers to interact with the Bureau of Land Management, the Department of Defense and other federal agencies in:

(1) Expediting land leases;

(2) Resolving site issues; and

(3) Receiving permits for projects on public lands within the appropriate areas of this State;

(c) Coordinating the planning of renewable energy projects in appropriate areas of this State to establish a mix of solar, wind and geothermal renewable energy systems that create a reliable source of energy and maximize the use of current or future transmission lines and infrastructure; and

(d) Developing proposals for the financing of future electric transmission projects for renewable energy if no such financing proposals exist.

3. Review jointly with the Nevada System of Higher Education the policies of this State relating to the research and development of the geothermal energy resources in this State and make recommendations to the appropriate state and federal agencies concerning methods for the development of those resources.

4. If the Commissioner determines that it is feasible and cost-effective, enter into contracts with researchers from the Nevada System of Higher Education:

(a) To conduct environmental studies relating to the identification of appropriate areas in this State for the development of renewable energy resources, including, without limitation, hydrologic studies, solar resource mapping studies and wind power modeling studies; and

(b) For the development of technologies that will facilitate the energy efficiency of the electricity grid for this State, including, without limitation, meters that facilitate energy efficiency for consumers of electricity.

5. Cooperate with the Director:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

6. Coordinate the activities and programs of the Authority with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

7. Carry out all other directives concerning energy that are prescribed by the Legislature.

Sec. 1.25. The Commissioner may:

1. Administer any gifts or grants which the Authority is authorized to accept.

2. To the extent not inconsistent with the terms or conditions of a gift, grant, appropriation or authorization, expend money received from those gifts or grants or from any money received through legislative appropriations or authorizations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations to carry out such a program.

5. Assist developers of renewable energy systems in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.

6. Adopt any regulations that the Commissioner determines are necessary to carry out the duties of the Commissioner or the Authority.

7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Commissioner or the Authority.

Sec. 1.27. 1. The State and Local Government Panel on Renewable and Efficient Energy is hereby created.

2. The Panel consists of the Commissioner and the following seven members appointed by the Commissioner:

(a) A representative of the State Public Works Board;

(b) A representative of the Housing Division of the Department of Business and Industry;

(c) A representative of the Buildings and Grounds Division of the Department of Administration;

(d) A representative of the Department of Wildlife;

(e) A representative of the Nevada Association of Counties or its successor organization;

(f) A representative of the Nevada League of Cities or its successor organization; and

(g) A representative of the Nevada Association of School Boards or its successor organization.

Sec. 1.29. 1. The Commissioner is the Chairman of the Panel.

2. The members of the Panel shall meet at the call of the Commissioner. The Panel shall prescribe regulations for its management and government.

3. A majority of the members of the Panel constitutes a quorum, and a quorum may exercise all the powers conferred on the Panel.

4. The members of the Panel serve at the pleasure of the Commissioner.

5. The members of the Panel serve without compensation.

6. The members of the Panel who are state employees:

(a) Must be relieved from their duties without loss of their regular compensation to perform their duties relating to the Panel in the most timely manner practicable; and

(b) May not be required to make up the time they are absent from work to fulfill their obligations as members of the Panel or to take annual leave or compensatory time for the absence.

Sec. 1.31. The Panel:

1. Shall advise the Commissioner and the Authority on the viability and progress of energy efficiency and renewable energy retrofit projects at public buildings and schools; and

2. May apply for any available grants and accept any gifts, grants or donations to assist the Panel in carrying out its duties pursuant to this section.

Sec. 1.33. The Authority shall provide the personnel, facilities, equipment and supplies required by the Panel to carry out the provisions of sections 1.27 to 1.33, inclusive, of this act.

Sec. 1.35. 1. The New Energy Industry Task Force is hereby created.

2. The Task Force consists of the Commissioner and the following eight members appointed by the Commissioner:

(a) A representative of the large-scale solar energy industry in this State;

(b) A representative of the geothermal energy industry in this State;

(c) A representative of the wind energy industry in this State;

(d) A representative of the distributed generation industry, energy efficiency equipment and installation industry or manufacturers of equipment for renewable energy power plants in this State;

(e) A representative of an electric utility in this State;

(f) A representative of an organization in this State that advocates on behalf of environmental or public lands issues who has expertise in or knowledge of environmental or public lands issues;

(g) A representative of a labor organization in this State; and

(h) A representative of an organization that represents contractors in this State.

Sec. 1.37. 1. The Commissioner is the Chairman of the Task Force.

2. The members of the Task Force shall meet at the call of the Commissioner. The Task Force shall prescribe regulations for its management and government.

3. A majority of the members of the Task Force constitutes a quorum, and a quorum may exercise all the powers conferred on the Task Force.

4. The members of the Task Force serve at the pleasure of the Commissioner.

5. The members of the Task Force serve without compensation.

Sec. 1.39. The Task Force:

1. Shall advise the Commissioner and the Authority on measures to promote the development of renewable energy and energy efficiency projects in this State; and

2. May apply for any available grants and accept any gifts, grants or donations to assist the Task Force in carrying out its duties pursuant to this section.

Sec. 1.41. *The Authority shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out the provisions of sections 1.35 to 1.41, inclusive, of this act.*

Sec. 1.43. *NRS 701.020 is hereby amended to read as follows:*

701.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 701.030 to 701.090, inclusive, *and sections 1.13, 1.15 and 1.17 of this act* have the meanings ascribed to them in those sections.

Sec. 1.45. *NRS 701.090 is hereby amended to read as follows:*

701.090 "Task Force" means the *New Energy Industry* Task Force ~~[for Renewable Energy and Energy Conservation]~~ created by ~~[NRS 701.350.]~~ *section 1.35 of this act.*

Sec. 1.47. *NRS 701.160 is hereby amended to read as follows:*

701.160 The Director shall prepare a report concerning the status of energy in the State of Nevada and submit it to:

1. The Governor *and the Commissioner* on or before ~~[January 30]~~ *July 1* of each year; and

2. The *Director of the Legislative Counsel Bureau for transmittal to the next regular session of the* Legislature on or before ~~[January 30]~~ *July 1* of each ~~[odd-numbered]~~ *even-numbered* year.

Sec. 1.49. *NRS 701.170 is hereby amended to read as follows:*

701.170 The Director may:

1. Administer any gifts or grants which the Office of Energy is authorized to accept for the purposes of this chapter.

2. ~~[Expend]~~ *To the extent not inconsistent with the terms or conditions of a gift, grant or appropriation, expend* money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. ~~[Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.~~

~~5. Assist developers of renewable energy generation projects in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.~~

~~6.~~ Adopt any regulations that the Director determines are necessary to carry out the duties of the Office of Energy pursuant to this chapter.

~~[7.]~~ *5.* Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Office of Energy. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Office of Energy.

~~[8.]~~ *6.* Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Office of Energy.

Sec. 1.51. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources ~~[.]~~ *, including, without limitation:*

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 and the Wind Energy Systems Demonstration Program created pursuant to 701B.580, including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the Programs; and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Programs; and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. ~~[Utilize all available public and private means to provide information to the public about problems relating to energy and to explain how conservation of energy and its sources may be accomplished.~~

~~3.]~~ Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

~~[4.]~~ *3.* Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

~~[5. Encourage the development of:~~

~~(a) Any sources of renewable energy and any other energy projects which will benefit the State; and~~

~~(b) Any measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~6. In conjunction with the Desert Research Institute, review policies relating to the research and development of the State's geothermal resources and make recommendations to the appropriate state and federal agencies for establishing methods of developing the geothermal resources within the State.~~

~~7.]~~ *4.* Solicit and serve as the point of contact for grants and other money from the Federal Government *, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy,* and other sources to ~~[promote:]~~ *cooperate with the Commissioner and the Authority:*

(a) ~~[Energy]~~ *To promote energy* projects that enhance the economic development of the State;

(b) ~~[The]~~ *To promote the* use of renewable energy ~~[; and]~~ *in this State;*

(c) ~~[The]~~ *To promote the* use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy ~~[.~~

~~8.]~~ *:*

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the ~~[Task Force,]~~ *Authority,* the Consumer's Advocate and the Public Utilities Commission of Nevada *,* and *with* other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

~~[9.]~~ *6.* Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 1.53. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 ~~[and the Wind Energy Systems Demonstration Program created pursuant to 701B.580,]~~ including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the ~~[Programs;]~~ *Program;* and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the ~~[Programs;]~~ *Program;* and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and

the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 1.55. *NRS 701.190 is hereby amended to read as follows:*

701.190 1. The ~~[Director]~~ *Commissioner* shall prepare a comprehensive state energy plan which provides for the promotion of:

(a) Energy projects that enhance the economic development of the State;

(b) The use of renewable energy; and

(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

2. The comprehensive state energy plan must include provisions for:

(a) The assessment of the potential benefits of proposed energy projects on the economic development of the State.

(b) The education of persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(c) The creation of incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(d) Grants and other money to establish programs and conduct activities which promote:

(1) Energy projects that enhance the economic development of the State;

(2) The use of renewable energy; and

(3) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(e) The development or incorporation by reference of model and uniform building and energy codes and standards which are written in language that is easy to understand and which include performance standards for conservation of energy and efficient use of energy.

(f) *The promotion of the development in this State of a curriculum for a program of renewable energy education in kindergarten through grade 12.*

(g) The promotion of the development by institutions of higher education in this State of research and educational programs relating to renewable energy.

(h) Oversight and accountability with respect to all programs and activities described in this subsection.

~~[(g)]~~ *(i)* Any other matter that the ~~[Task Force]~~ *Commissioner* determines to be relevant to the issues of energy resources, energy use, energy conservation and energy efficiency.

Sec. 1.57. *NRS 701.200 is hereby amended to read as follows:*

701.200 1. The ~~[Director]~~ *Commissioner* may recommend to state agencies, local governments and appropriate private persons and entities, standards for conservation of energy and its sources and for carrying out the comprehensive state energy plan.

2. In recommending such standards, the ~~[Director]~~ *Commissioner* shall consider the usage of energy and its sources in the State and the methods available for conservation of those sources.

Sec. 1.59. NRS 701.210 is hereby amended to read as follows:

701.210 The ~~[Director]~~ *Commissioner* shall:

1. Prepare, subject to the approval of the Governor, petroleum allocation and rationing plans for possible energy contingencies. The plans shall be carried out only by executive order of the Governor.

2. Carry out and administer any federal programs which authorize state participation in fuel allocation programs.

~~[Sec. 1.5.]~~ *Sec. 1.61.* NRS 701.215 is hereby amended to read as follows:

701.215 *1.* The Director shall prepare a state energy reduction plan which requires state agencies, departments and other entities in the Executive Branch to reduce grid-based energy purchases for state-owned buildings by 20 percent by 2015.

2. In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money to be used by the Director to fulfill the requirements of subsection 1.

3. The Director:

(a) Shall use any amount of money provided pursuant to subsection 2 to fulfill the requirements of subsection 1;

(b) May fulfill the requirements of subsection 1 by contracting with one or more qualified independent consultants; and

(c) Shall biannually file reports with the Legislative Commission that:

(1) Indicate the general progress of energy reduction in state buildings; and

(2) Identify any state agency that fails to cooperate with the Director in the design or implementation of the plan prepared pursuant to subsection 1.

Sec. 1.63. NRS 701.220 is hereby amended to read as follows:

701.220 1. The ~~[Director]~~ *Commissioner* shall adopt regulations for the conservation of energy in buildings, including manufactured homes. Such regulations must include the adoption of the most recent version of the International Energy Conservation Code, issued by the International Code Council, and any amendments to the Code that will not materially lessen the effective energy savings requirements of the Code and are deemed necessary to support effective compliance and enforcement of the Code, and must establish the minimum standards for:

(a) The construction of floors, walls, ceilings and roofs;

(b) The equipment and systems for heating, ventilation and air-conditioning;

(c) Electrical equipment and systems;

(d) Insulation; and

(e) Other factors which affect the use of energy in a building.

➥ The regulations must provide for the adoption of the most recent version of the International Energy Conservation Code, and any amendments thereto, every third year.

2. The ~~[Director]~~ *Commissioner* may exempt a building from a standard if he determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the ~~[Director]~~ *Commissioner* are the minimum standards for the conservation of energy and energy efficiency which apply only to areas in which the governing body of the local government has not adopted standards for the conservation of energy and energy efficiency in buildings. Such governing bodies shall assist the ~~[Director]~~ *Commissioner* in the enforcement of the regulations adopted pursuant to this section.

5. The ~~[Director]~~ *Commissioner* shall solicit comments regarding the adoption of regulations pursuant to this section from:

(a) Persons in the business of constructing and selling homes;

(b) Contractors;

(c) Public utilities;

(d) Local building officials; and

(e) The general public,

➥ before adopting any regulations. The ~~[Director]~~ *Commissioner* must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before he may adopt any regulations pursuant to this section.

Sec. 1.65. NRS 701.230 is hereby amended to read as follows:

701.230 1. In a county whose population is 100,000 or more, a building whose construction began on or after October 1, 1983, must not contain a system using electric resistance for heating spaces unless:

(a) The system is merely supplementary to another means of heating;

(b) Under the particular circumstances no other primary means of heating the spaces is a feasible or economical alternative to heating by electric resistance; or

(c) The ~~[Office of Energy]~~ *Authority* determines that the present or future availability of other sources of energy is so limited as to justify the use of such a system.

2. This section does not prohibit the use of incandescent or fluorescent lighting.

Sec. 1.67. NRS 701.240 is hereby amended to read as follows:

701.240 1. The ~~[Director]~~ *Commissioner* shall develop a program to distribute money, within the limits of legislative appropriation, in the form of grants, incentives or rebates to persons to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems, if the ~~[Director]~~ *Commissioner* determines that the distribution of money to a person for that purpose will encourage, promote or stimulate:

(a) The development or use of sources of renewable energy in the State or the development of industries or technologies that use sources of renewable energy in the State;

(b) The conservation of energy in the State, the diversification of the types of energy used in the State or any reduction in the dependence of the State on foreign sources of energy;

(c) The protection of the natural resources of the State or the improvement of the environment;

(d) The enhancement of existing utility facilities or any other infrastructure in the State or the development of new utility facilities or any other infrastructure in the State; or

(e) The investment of capital or the expansion of business opportunities in the State or any growth in the economy of the State.

2. The ~~[Director]~~ *Commissioner* may adopt any regulations that are necessary to carry out the provisions of this section.

3. The ~~[Director]~~ *Commissioner* shall not distribute money to any person pursuant to this section unless:

(a) The person complies with any requirements that the ~~[Director]~~ *Commissioner* adopts by regulation; and

(b) The distribution of the money is consistent with one or more of the public purposes set forth in paragraphs (a) to (e), inclusive, of subsection 1.

4. As used in this section, "person" includes, without limitation, any state or local governmental agency or entity.

Sec. 1.69. NRS 701.250 is hereby amended to read as follows:

701.250 1. The ~~[Director]~~ *Commissioner* shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.

2. The regulations must include, without limitation:

(a) Standards for evaluating the energy consumption of residential property; and

(b) Provisions prescribing a form to be used pursuant to NRS 113.115, including, without limitation, provisions that require a portion of the form to provide information on programs created pursuant to NRS 702.275 and other programs of improving energy conservation and energy efficiency in residential property.

3. As used in this section:

(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one

person who maintains a household or by two or more persons who maintain a common household.

(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.

Sec. 1.71. *NRS 701.260 is hereby amended to read as follows:*

701.260 1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy efficiency established by the ~~[Director]~~ *Commissioner* pursuant to subsection 3 for lumens per watt of electricity consumed.

3. The ~~[Director]~~ *Commissioner* shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:

(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy efficiency established by the ~~[Director]~~ *Commissioner* must exceed 25 lumens per watt of electricity consumed.

(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.

4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the ~~[Director]~~ *Commissioner* by regulation.

Sec. 1.73. *NRS 701.370 is hereby amended to read as follows:*

701.370 1. The Trust Fund for Renewable Energy and Energy Conservation is hereby created in the State Treasury.

2. The ~~[Task Force]~~ *Authority* shall administer the Fund. As administrator of the Fund, the ~~[Task Force:]~~ *Authority:*

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties that are necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. Not more than 2 percent of the money in the Fund may be used to pay the costs of administering the Fund.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund may only be expended pursuant to an allocation made by the ~~[Task Force.]~~ *Authority.* Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 1.75. NRS 701.380 is hereby amended to read as follows:

701.380 1. The ~~[Task Force]~~ *Authority* shall:

(a) ~~[Advise the Office of Energy in:~~

~~(1) The development and periodic review of the comprehensive state energy plan with regard to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(2) The distribution of money to persons pursuant to NRS 701.240 to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems.~~

~~(b)]~~ Coordinate its activities and programs with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada , and *with* other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

~~[(c)]~~ *(b)* Spend the money in the Trust Fund for Renewable Energy and Energy Conservation to:

(1) Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(2) Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(3) Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(4) Conduct feasibility studies, including, without limitation, any feasibility studies concerning the establishment or expansion of any grants, incentives, rebates or other programs to enable or assist persons to reduce the cost of purchasing *distributed generation systems and* on-site generation

systems [,] *and* net metering systems [and distributed generation systems] that use renewable energy.

[(d)] *(c)* Take any other actions that the [Task Force] *Authority* deems necessary to carry out its duties, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the [Task Force] *Authority* in carrying out its duties.

2. The [Task Force] *Authority* shall prepare an annual report concerning its activities and programs and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include, without limitation:

(a) A description of the objectives of each activity and program;

(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;

(c) The amount of money distributed for each activity and program from the Trust Fund for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;

(d) An analysis of the coordination between the [Task Force] *Authority* and other officers and agencies; and

(e) Any changes planned for each activity and program.

3. As used in this section [, "distributed] *:*

(a) "Distributed generation system" means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed [.] *:*

(1) That uses renewable energy as defined in NRS 704.7811 to generate electricity;

(2) That is located on the property of a customer of an electric utility;

(3) That is connected on the customer's side of the electricity meter;

(4) That provides electricity primarily to offset customer load on that property; and

(5) The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive.

(b) "Electric utility" has the meaning ascribed to it in NRS 704.7571.

Sec. 1.77. NRS 701A.100 is hereby amended to read as follows:

701A.100 1. The [Director of the Office of Energy] *Nevada Energy Commissioner* shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to NRS 701A.110.

2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the [Director:] *Commissioner:*

(a) Except as otherwise provided in paragraphs (b) and (c), must not include:

(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or

(2) Standards for homes;

(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and

(c) Must require a building or other structure to obtain:

(1) At least 3 points of credit for energy conservation to meet the equivalent of the silver level;

(2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and

(3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.

3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.

Sec. 1.79. NRS 701A.110 is hereby amended to read as follows:

701A.110 1. Except as otherwise provided in this section, the ~~[Director]~~ *Commissioner* shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the ~~[Director]~~ *Commissioner* pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the ~~[Director.]~~ *Commissioner.* If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the ~~[Director,]~~ *Commissioner,* within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the ~~[Director]~~ *Commissioner* pursuant to

NRS 701A.100. The ~~[Director]~~ *Commissioner* may, for good cause shown, extend the period for providing such proof.

2. As soon as practicable after the ~~[Director]~~ *Commissioner* receives:

(a) The application required by subsection 1, the ~~[Director]~~ *Commissioner* shall forward a copy of that application to the:

(1) Chief of the Budget Division of the Department of Administration;

(2) Department of Taxation;

(3) County assessor;

(4) County treasurer; and

(5) Commission on Economic Development.

(b) The application and proof required by subsection 1, the ~~[Director]~~ *Commissioner* shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

(1) Department of Taxation;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

3. As soon as practicable after receiving a copy of:

(a) An application pursuant to paragraph (a) of subsection 2:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to paragraph (b) of subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public

education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the ~~[Director]~~ *Commissioner* that the building or other structure has ceased to meet the equivalent of the silver level or higher. The ~~[Director]~~ *Commissioner* shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The ~~[Director]~~ *Commissioner* shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The ~~[Director]~~ *Commissioner* shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the ~~[Director;]~~ *Commissioner;* and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

➥ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) ~~["Director"]~~ *"Commissioner"* means the ~~[Director of the Office of Energy]~~ *Nevada Energy Commissioner* appointed pursuant to ~~[NRS 701.150.]~~ *section 1.21 of this act.*

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Sec. 1.81. *Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.83 to 1.95, inclusive, of this act.*

Sec. 1.83. *"Authority" means the Renewable Energy and Energy Efficiency Authority created by section 1.19 of this act.*

Sec. 1.85. *"Authority" means the Renewable Energy and Energy Efficiency Authority created by section 1.19 of this act.*

Sec. 1.87. *"Authority" means the Renewable Energy and Energy Efficiency Authority created by section 1.19 of this act.*

Sec. 1.89. *"Distributed generation system" means a system or facility for the generation of electricity:*

1. That uses solar energy to generate electricity;

2. That is located on the property of a customer of an electric utility;

3. That is connected on the customer's side of the electricity meter;

4. That provides electricity primarily to offset customer load on that property; and

5. The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive.

Sec. 1.91. *The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of his solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. An applicant who forfeits his eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of his solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of his solar energy system.*

Sec. 1.93. *The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of his wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits his eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of his wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of his wind energy system.*

Sec. 1.95. *The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of his waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits his eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of his waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of his waterpower energy system.*

Sec. 1.97. *NRS 701B.020 is hereby amended to read as follows:*

701B.020 As used in NRS 701B.010 to 701B.290, inclusive, *and sections 1.83, 1.89 and 1.91 of this act,* unless the context otherwise requires, the words and terms defined in NRS 701B.030 to 701B.180, inclusive, *and sections 1.83 and 1.89 of this act* have the meanings ascribed to them in those sections.

Sec. 1.99. *NRS 701B.080 is hereby amended to read as follows:*

701B.080 "Participant" means a person who has been selected by the ~~[Task Force]~~ *Commission* to participate in the Solar Program.

Sec. 2. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, *and sections 1.83, 1.89 and 1.91 of this act,* including, without limitation, regulations that *:* ~~[establish:]~~

1. ~~[The]~~ *Establish the* type of incentives available to participants in the Solar Program and the level or amount of those incentives [;] *, except that the level or amount of an incentive available in a particular program year must ~~[be]~~ not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (c) of subsection 2 of NRS 701B.260 . ~~[;]~~ The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.*

2. ~~[The]~~ *Establish the* requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all

applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems pursuant to paragraph (b) of subsection 1 of NRS 701B.260.

Sec. 2.3. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property; and

2. The form and content of the master application which ~~[a utility]~~ *the Authority* must submit to the ~~[Task Force]~~ *Commission* pursuant to NRS 701B.250.

Sec. 2.5. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The Solar Program must have three categories as follows:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to ~~[a utility]~~ *the Authority* and be selected by the ~~[Task Force]~~ *Commission* for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.260;

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 2.7. NRS 701B.250 is hereby amended to read as follows:

701B.250 1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to ~~[a utility.]~~ *the Authority.* If an applicant desires to participate in the category of school property or public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.

2. Each year on or before the date established by the Commission, *the Authority shall submit to* a utility ~~[shall]~~ *for* review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program . ~~[and]~~

3. Each year on or before the date established by the Commission, a utility shall submit its recommendations to the Authority for each application submitted for its review pursuant to subsection 2.

4. Upon receipt of the recommendations of the utility pursuant to subsection 3, the Authority shall submit to the ~~[Task Force:]~~ *Commission:*

(a) *The Authority's recommendations as to which applications should be approved for participation in the Solar Program;*

(b) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and

~~[(b)]~~ *(c)* A master application containing all the applications recommended by the utility.

~~[3.]~~ *5.* At any time after submitting an application to ~~[a utility,]~~ *the Authority,* an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to NRS 701B.260.

Sec. 3. NRS 701B.260 is hereby amended to read as follows:

701B.260 1. Except as otherwise provided in this section, the Commission may approve, for ~~[a]~~ *:*

(a) The program year ~~[,]~~ *beginning July 1, 2009,* solar energy systems:

~~[(a)]~~ *(1)* Totaling 2,000 kilowatts of capacity for school property;

~~[(b)]~~ *(2)* Totaling 760 kilowatts of capacity for public and other property; and

~~[(c)]~~ *(3)* Totaling 1,000 kilowatts of capacity for private residential property and small business property ~~[.]~~ *; and*

(b) Each program year for the period beginning July 1, 2010, and ending on June 30, 2021, an additional 9 percent of the sum of the total allocated capacities of all the categories described in paragraph (a) which must be approved for distributed generation systems.

2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications to the ~~[Task Force]~~ *Authority* from applicants who want to participate in that category; ~~[or]~~

(b) Reallocate any of the unused capacity in that category to any of the other categories ~~[,]~~ *; or*

(c) Reallocate any of the unused capacity in that category to future program years within the same category.

~~[➥ but in no case may the sum of the allocated total capacities of all the categories be greater than 3,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.]~~

3. To promote the installation of solar energy systems on as many school properties as possible, the Commission may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.

4. After reviewing the master application submitted by ~~[a utility]~~ *the Authority* pursuant to NRS 701B.250 and ensuring that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the ~~[Task Force]~~ *Commission* shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program if any capacity within a category becomes available.

5. Not later than 30 days after the date on which the ~~[Task Force]~~ *Commission* selects an applicant to be on the list of participants or the prioritized waiting list, ~~[the utility which submitted the application to the Task Force on behalf of the applicant]~~ *the Authority* shall provide written notice of the selection to the applicant.

6. After the ~~[Task Force]~~ *Commission* selects an applicant to be on the list of participants, the ~~[utility which submitted the application to the Task Force on behalf of the applicant]~~ *Authority* may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection ~~[3]~~ *5* of NRS 701B.250, immediately upon the ~~[utility's]~~ *Authority's* approval of the solar energy system, the applicant may install and energize the solar energy system.

7. The Commission shall not authorize the payment of an incentive for the installation of a distributed generation system pursuant to paragraph (b) of subsection 1 if:

(a) For the period beginning July 1, 2010, and ending June 30, 2013, inclusive, the payment of the incentive would cause the total amount of incentives paid for the installation of distributed generation systems pursuant to paragraph (b) of subsection 1 to exceed $78,260,000; and

(b) For the period beginning July 1, 2010, and ending June 30, 2021, the payment of the incentive would cause the total amount of incentives paid for the installation of distributed generation systems pursuant to paragraph (b) of subsection 1 to exceed $255,270,000.

Sec. 4. (Deleted by amendment.)

Sec. 4.3. NRS 701B.410 is hereby amended to read as follows:

701B.410 As used in NRS 701B.400 to 701B.650, inclusive, *and sections 1.85 and 1.93 of this act*, unless the context otherwise requires, the words and terms defined in NRS 701B.420 to 701B.560, inclusive, *and section 1.85 of this act* have the ~~[meaning]~~ *meanings* ascribed to them in those sections.

Sec. 4.5. NRS 701B.470 is hereby amended to read as follows:

701B.470 "Participant" means a person who has been selected by the ~~[Task Force]~~ *Commission* pursuant to NRS 701B.620 to participate in the Wind Demonstration Program.

Sec. 4.7. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590;

(b) Submit an application to ~~[a utility]~~ *the Authority* and be selected by the ~~[Task Force]~~ *Commission* for inclusion in the Program pursuant to NRS 701B.610 and 701B.620;

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 5. NRS 701B.590 is hereby amended to read as follows:

701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives ~~[.]~~ *, except that the level or amount of an incentive available in a particular program year must be not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (c) of subsection 3 of NRS 701B.620.*

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 5.5. *NRS 701B.610 is hereby amended to read as follows:*

701B.610 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. *Each year on or before the date established by the Commission, the Authority shall submit to a utility for review each application submitted to the Authority pursuant to NRS 701B.580.*

4. Each year on or before the date established by the Commission, a utility shall submit its recommendations to the Authority for each application submitted for its review pursuant to subsection 3.

5. On or before November 1, 2008, and on or before November 1 of each year thereafter, ~~[each utility]~~ *the Authority* shall submit to the ~~[Task Force]~~ *Commission* the ~~[utility's]~~ recommendations *of the Authority and each utility* as to which applications received by the ~~[utility]~~ *Authority* should be approved for participation in the Program. The ~~[Task Force]~~ *Commission* shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

~~[4.]~~ *6.* Except as otherwise provided in NRS 701B.620, the ~~[Task Force]~~ *Commission* may approve, from among the applications recommended by *the Authority and* each utility, wind energy systems totaling:

(a) For the program year beginning July 1, 2008:

(1) *Not more than* 500 kilowatts of capacity for school property;

(2) *Not more than* 500 kilowatts of capacity for other public property;

(3) *Not more than* 700 kilowatts of capacity for private residential property and small business property; and

(4) *Not more than* 700 kilowatts of capacity for agricultural property.

(b) For the program year beginning July 1, 2009:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 6. NRS 701B.620 is hereby amended to read as follows:

701B.620 1. Based on the applications submitted by ~~[each utility]~~ *the Authority* for a program year, the ~~[Task Force]~~ *Commission* shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the ~~[Task Force]~~ *Commission* selects an applicant to be on the list of participants or the prioritized waiting list, the ~~[utility which submitted the application to the Task Force on behalf of the applicant]~~ *Authority* shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the ~~[Task Force]~~ *Commission* may, in any combination it deems appropriate:

(a) Allow ~~[a utility]~~ *the Authority* to submit additional applications from applicants who want to participate in that category; ~~[or]~~

(b) Reallocate any of the unused capacity in that category to any of the other categories ~~[.]~~ *; or*

(c) Reallocate any of the unused capacity in that category to future program years within the same category.

4. At any time after submitting an application to participate in the Program to ~~[a utility,]~~ *the Authority,* an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 7. (Deleted by amendment.)

Sec. 7.1. NRS 701B.700 is hereby amended to read as follows:

701B.700 NRS 701B.700 to ~~[701B.890,]~~ *701B.880,* inclusive, *and sections 1.87 and 1.95 of this act* may be cited as the Waterpower Energy Systems Demonstration Program Act.

Sec. 7.3. NRS 701B.710 is hereby amended to read as follows:

701B.710 As used in NRS 701B.700 to ~~[701B.890,]~~ *701B.880,* inclusive, *and sections 1.87 and 1.95 of this act,* unless the context otherwise requires, the words and terms defined in NRS 701B.720 to 701B.810, inclusive, *and section 1.87 of this act* have the meanings ascribed to them in those sections.

Sec. 7.5. NRS 701B.820 is hereby amended to read as follows:

701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for agricultural uses.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 *,* ~~[and]~~ apply to *the Authority* and be selected by the ~~[Task Force]~~ *Commission* for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 7.7. NRS 701B.830 is hereby amended to read as follows:

701B.830 ~~[The Task Force]~~ *Each utility* is responsible for the administration and delivery of the Waterpower Demonstration Program as approved by the Commission.

Sec. 8. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program ~~[.]~~ *, except that the level or amount of an incentive available in a particular program year must be not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to subsection ~~[5]~~ 7 of NRS 701B.850.*

2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:

(a) An advertising plan;

(b) A detailed budget;

(c) A schedule;

(d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;

(e) An inspection and verification process;

(f) Proposed training and educational activities; and

(g) Any other information required by the Commission.

Sec. 9. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the Commission for approval an annual plan for the administration and delivery of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.

2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the Commission shall review the annual plan for compliance with the requirements set forth by regulation of the Commission.

3. *Each year on or before the date established by the Commission, the Authority shall submit to a utility for review each application submitted to the Authority pursuant to NRS 701B.820.*

4. Each year on or before the date established by the Commission, a utility shall submit its recommendations to the Authority for each application submitted for its review pursuant to subsection 3.

5. On or before November 1, 2008, and on or before November 1 of each subsequent year, ~~[each utility]~~ *the Authority* shall submit to the ~~[Task Force a recommendation]~~ *Commission the recommendations* of *the Authority and each utility as to* which applications received *by the Authority* should be accepted into the program. The ~~[Task Force]~~ *Commission* shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of NRS 701B.820.

~~[4.]~~ *6.* The ~~[Task Force]~~ *Commission* may approve, from among the applications recommended by *the Authority and* each utility, waterpower energy systems totaling:

(a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;

(b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and

(c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.

~~*[5.]*~~ *7. If the capacity allocated for a program year is not fully subscribed by participants, the* ~~*[Task Force]*~~ *Commission may reallocate any of the unused capacity to future program years.*

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 702.275 is hereby amended to read as follows:

702.275 1. ~~[At the beginning of a]~~ *Before the end of each* fiscal year, *the Division of Welfare and Supportive Services shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means during a regular or special session of the Legislature, or the Interim Finance Committee when the Legislature is not in session, which specifies the amount of all money in the Fund which was allocated to the Division of Welfare and Supportive Services during all preceding fiscal years pursuant to NRS 702.260 and which remains unspent and unencumbered.*

2. Based upon the report submitted pursuant to subsection 1 and any other information available, the Senate Standing Committee on Finance or the Assembly Standing Committee on Ways and Means during a regular or special session of the Legislature, or the Interim Finance Committee when the Legislature is not in session, may require the Division of Welfare and Supportive Services to distribute not more than 30 percent of *all* the money in the Fund which was allocated to the Division of Welfare and Supportive Services during ~~[the]~~ *all* preceding fiscal ~~[year]~~ *years* pursuant to NRS 702.260 and which remains unspent and unencumbered ~~[must be distributed]~~ to the Housing Division for ~~[a program of improving energy conservation and energy efficiency in residential property.]~~ *the programs authorized by NRS 702.270.* The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.

~~[2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in NRS 701.250 with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.~~

~~3. To be eligible to receive assistance from the Housing Division pursuant to this section:~~

~~(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of~~

~~the United States Department of Housing and Urban Development of the most current median gross family income for that county; and~~

~~(b) The residential property must not meet the standards for energy consumption established pursuant to NRS 701.250.~~

~~4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.~~

~~5. In carrying out the provisions of this section, the Housing Division shall:~~

~~(a) Solicit advice from the Division of Welfare and Supportive Services and from other knowledgeable persons;~~

~~(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;~~

~~(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;~~

~~(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;~~

~~(e) Establish a process for evaluating the program conducted pursuant to this section;~~

~~(f) Develop a process for making changes to the program; and~~

~~(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services as required by NRS 702.280.]~~

Sec. 11.1. *NRS 703.130 is hereby amended to read as follows:*

703.130 1. The Commission shall appoint a Deputy Commissioner who shall serve in the unclassified service of the State.

2. The Commission shall appoint a Secretary who shall perform such administrative and other duties as are prescribed by the Commission. The Commission shall also appoint an Assistant Secretary.

3. *The Commission shall, within the limits of legislative appropriations or authorizations, employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Commission may require.*

4. The Commission may employ such other clerks, experts or engineers as may be necessary.

~~[4.]~~ *5.* Except as otherwise provided in subsection ~~[5,]~~ *6,* the Commission:

(a) May appoint one or more hearing officers for a period specified by the Commission to conduct proceedings or hearings that may be conducted by the Commission pursuant to NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705, 708 and 711 of NRS.

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the Commission.

~~[5.]~~ *6.* The Commission shall not appoint a hearing officer to conduct proceedings or hearings:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) In any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application.

~~[6.]~~ *7.* As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 11.3. *Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. The Commission shall adopt regulations authorizing an electric utility to recover the net revenues differential that is attributable to decreases in customer consumption and loads that are associated with the implementation by the electric utility of energy efficiency and conservation programs approved by the Commission.

2. The regulations adopted pursuant to subsection 1:

(a) Must provide for timely cost recovery and timely earnings opportunity associated with verifiable energy efficiency savings in a manner which ensures that the earnings opportunity associated with the implementation of energy efficiency and conservation programs is not less than the earnings opportunity associated with other investments and measures to serve increased customer consumption and loads;

(b) Must not affect the electric utility's incentives and allowed returns in areas not affected by the implementation of energy efficiency and conservation programs;

(c) Must not discourage advanced pricing methodologies that encourage energy conservation by customers of the electric utility;

(d) Must provide that the effect to the customers of the electric utility must be apportioned fairly among all customers who receive energy from the transmission and distribution facilities of the electric utility;

(e) Must authorize the electric utility to recover its costs and net revenues differential through a rate that is adjusted annually; and

(f) May provide for additional incentives for the electric utility to encourage customers to participate in energy efficiency and conservation programs approved by the Commission.

3. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 11.5. *NRS 704.021 is hereby amended to read as follows:*

704.021 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to $25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of the public utility per individual system if each individual system is:

(a) Located on the premises of another person;

(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

➥ *As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.*

Sec. 11.7. NRS 704.033 is hereby amended to read as follows:

704.033 1. Except as otherwise provided in subsection 6, the Commission shall levy and collect an annual assessment from all public utilities, providers of discretionary natural gas service and alternative sellers subject to the jurisdiction of the Commission.

2. Except as otherwise provided in subsections 3 and 4, the annual assessment must be:

(a) For the use of the Commission, not more than ~~[3.50]~~ *2.50* mills; ~~[and]~~

(b) For the use of the Consumer's Advocate, not more than 0.75 mills ~~[.]~~ *;*

(c) For the use of the Renewable Energy and Energy Efficiency Authority, not more 0.925 mills; and

(d) For the use of the Office of Energy, not more than 0.075 mills,

➥ on each dollar of gross operating revenue derived from the intrastate operations of such utilities, providers of discretionary natural gas service and alternative sellers in the State of Nevada. The total annual assessment must be not more than 4.25 mills.

3. The levy ~~[for]~~ *:*

(a) For the use of the Consumer's Advocate must not be assessed against railroads ~~[.]~~ *;*

(b) For the use of the Renewable Energy and Energy Efficiency Authority must be assessed only against electric utilities; and

(c) For the use of the Office of Energy must be assessed only against electric utilities.

4. The minimum assessment in any 1 year must be $100.

5. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:

(a) Telecommunication providers, except as provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues.

(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.

(c) All public utilities, providers of discretionary natural gas service and alternative sellers, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility, provider of discretionary natural gas service or alternative seller for resale.

6. Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee of $200.

7. The amount of the annual assessment which the Commission must levy and collect for the use of the Renewable Energy and Energy Efficiency Authority pursuant to paragraph (c) of subsection 2 and the Office of Energy pursuant to paragraph (d) of subsection 2 must be determined by:

(a) The Legislature if the Legislature is in session; or

(b) The Interim Finance Committee if the Legislature is not in session.

8. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 12. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the

first Monday in December 2007, and at least once every 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in December 2008, and at least once every 36 months thereafter.

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of $500,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission.

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of $500,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission.

➥ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts,

projections or budgets. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 9, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 9; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. An electric utility shall adjust its rates on a quarterly basis based on changes in the public utility's recorded costs of purchased fuel or purchased power in the following manner:

(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) Each electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred

energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

10. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 9 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

11. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

12. *In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:*

(a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:

(1) Until a date determined by the Commission; and

(2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and

(b) Authorize a utility to implement a reduced rate for low-income residential customers.

13. As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

(c) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it

does from customers located in counties whose population is 400,000 or more.

Sec. 13. (Deleted by amendment.)

Sec. 13.3. *NRS 704.7815 is hereby amended to read as follows:*

704.7815 "Renewable energy system" means:

1. A facility or energy system that ~~[:~~

~~(a) Uses]~~ *uses* renewable energy or energy from a qualified energy recovery process to generate electricity ~~[;]~~ and *:*

(a) Uses the electricity that it generates from renewable energy or energy from a qualified energy recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process ~~[via:~~

~~(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process and which is connected to a facility or system owned, operated or controlled by a provider of electric service; or~~

~~(2) A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service.]~~ *to a provider of electric service for delivery into and use in this State.*

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

Sec. 13.5. *NRS 704.7821 is hereby amended to read as follows:*

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar ~~[year]~~ *years* 2015 ~~[and for each calendar year thereafter,]~~ *to 2019, inclusive,* not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(g) For calendar years 2020 to 2024, inclusive, not less than 22 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(h) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. Except as otherwise provided in subsection 3, in addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than ~~[5]~~ *:*

(1) Five percent of that amount must be generated or acquired from solar renewable energy systems ~~[.]~~ *for each calendar year up to and including 2015; and*

(2) Six percent of that amount must be generated or acquired from solar renewable energy systems for calendar year 2016 and for each calendar year thereafter.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. The provisions of paragraphs (b) and (c) of subsection 2 do not apply to a provider of new electric resources pursuant to chapter 704B of NRS with respect to its use of an energy efficiency measure that is financed by a customer, or which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, except that, of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.

4. If, for the benefit of one or more retail customers in this State, the provider, or the customer of a provider of new electric resources pursuant to chapter 704B of NRS, has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

5. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

6. Except as otherwise provided in subsection 7, each provider shall comply with its portfolio standard during each calendar year.

7. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

8. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component

in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

9. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 13.7. *NRS 113.115 is hereby amended to read as follows:*

113.115 1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in NRS 701.250.

2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the ~~[Director of the Office of Energy,]~~ *Nevada Energy Commissioner*, as prescribed in regulations adopted pursuant to NRS 701.250.

3. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

(d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 16.5. ~~[Chapter 271 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The governing body of a county, city or town may establish a district to finance the construction and installation of renewable energy installations and energy efficiency improvements which the Director of the Office of Energy has determined are suitable for residential property pursuant to section 1 of this act.*~~

~~*2. If a governing body of a county, city or town establishes a district pursuant to subsection 1, the governing body shall:*~~

~~*(a) Establish a program to provide loans to owners of residential property in the district to assist the owners in constructing or installing renewable energy installations and energy efficiency improvements on the residential property.*~~

~~*(b) Issue special assessment bonds as provided in this chapter to finance the loans provided pursuant to the program.*~~

~~*(c) Establish criteria for determining the eligibility of an applicant and the residential property of the applicant for a loan provided pursuant to the program.*~~

~~*(d) Establish the maximum amount of a loan made pursuant to the program.*~~

~~*3. For each loan made pursuant to a program established pursuant to paragraph (a) of subsection 1:*~~

~~*(a) The period of the loan must not be less than 20 years.*~~

~~*(b) The rate of interest of the loan must be reasonable.*~~

~~*(c) The governing body must allow each owner of residential property to choose to repay the loan through an assessment levied by the governing body on the residential property of the owner.*~~

~~*(d) To ensure repayment of the loan, the governing body may record a lien for the amount of the loan against the residential property of an owner.*~~

~~*4. As used in this section:*~~

~~*(a) "Energy efficiency improvement" means a modification of residential property that is designed to reduce the energy consumption of the residential property.*~~

~~*(b) "Renewable energy" has the meaning ascribed to it in NRS 704.7811.*~~

~~*(c) "Renewable energy installation" means an installation that uses renewable energy to generate electricity.]*~~ *(Deleted by amendment.)*

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 18.1. *Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 18.2 to 18.5, inclusive, of this act.*

Sec. 18.2. *"Energy efficiency improvement" means a modification of real property that is designed to reduce the energy consumption of the real property.*

Sec. 18.3. *"Energy efficiency improvement project" means the modification of real property or the facilities or equipment on the real property that is designed to reduce the energy consumption of the real property.*

Sec. 18.4. *"Renewable energy" has the meaning ascribed to it in NRS 704.7811.*

Sec. 18.5. *"Renewable energy project" means real property, facilities and equipment used to generate electricity from renewable energy to offset customer load in whole or in part for the real property and all appurtenances and incidentals necessary, useful or desirable for any such real property, facilities and equipment.*

Sec. 18.7. *NRS 271.030 is hereby amended to read as follows:*

271.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 271.035 to 271.250, inclusive, *and sections 18.1 to 18.5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 18.9. *NRS 271.265 is hereby amended to read as follows:*

271.265 1. The governing body of a county, city or town, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

(a) A commercial area vitalization project;

(b) A curb and gutter project;

(c) A drainage project;

(d) *An energy efficiency improvement project;*

(e) An off-street parking project;

~~[(e)]~~ *(f)* An overpass project;

~~[(f)]~~ *(g)* A park project;

(h) A renewable energy project;

~~[(g)]~~ *(i)* A sanitary sewer project;

~~[(h)]~~ *(j)* A security wall;

~~[(i)]~~ *(k)* A sidewalk project;

~~[(j)]~~ *(l)* A storm sewer project;

~~[(k)]~~ *(m)* A street project;

~~[(l)]~~ *(n)* A street beautification project;

~~[(m)]~~ *(o)* A transportation project;

~~[(n)]~~ *(p)* An underpass project;

~~[(o)]~~ *(q)* A water project; and

~~[(p)]~~ *(r)* Any combination of such projects.

2. In addition to the power specified in subsection 1, the governing body of a city having a commission form of government as defined in NRS 267.010, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

(a) An electrical project;

(b) A telephone project;

(c) A combination of an electrical project and a telephone project;

(d) A combination of an electrical project or a telephone project with any of the projects, or any combination thereof, specified in subsection 1; and

(e) A combination of an electrical project and a telephone project with any of the projects, or any combination thereof, specified in subsection 1.

3. In addition to the power specified in subsections 1 and 2, the governing body of a municipality, on behalf of the municipality and in its name, without an election, may finance an underground conversion project with the approval of each service provider that owns the overhead service facilities to be converted.

4. In addition to the power specified in subsections 1, 2 and 3, if the governing body of a municipality in a county whose population is less than 400,000 complies with the provisions of NRS 271.650, the governing body of the municipality, on behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

(a) An art project; and

(b) A tourism and entertainment project.

Sec. 19. NRS 331.095 is hereby amended to read as follows:

331.095 1. The Chief shall establish a program to track the use of energy in buildings owned by the State and ~~[may establish such a program, where appropriate, for]~~ *in* other buildings *which are* occupied by a state agency ~~[.]~~ *and whose owners comply with the program pursuant to subsection 6.*

2. The program established pursuant to this section must:

(a) Record utility bills for each building for each month and preserve those records indefinitely;

(b) Allow for the comparison of utility bills for a building from month to month and year to year;

(c) Allow for the comparison of utility bills between buildings, including comparisons between similar buildings or types of buildings;

(d) Allow for adjustments to the information based upon variations in weather conditions, the length of the billing period and other changes in relevant conditions;

(e) Facilitate identification of errors in utility bills and meter readings;

(f) Allow for the projection of costs for energy for a building; and

(g) Identify energy and cost savings associated with efforts to conserve energy.

3. The Chief may apply for any available grants and accept any gifts, grants or donations to assist in establishing and carrying out the program.

4. *In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money to be used by the Chief to fulfill the requirements of subsection 1.*

5. To the extent that there is not sufficient money available for the support of the program, each state agency that occupies a building in which the use of energy is tracked pursuant to the program shall reimburse the Buildings and Grounds Division for the agency's proportionate share of the unfunded portion of the cost of the program. The reimbursement must be based upon the energy consumption of the respective state agencies that occupy buildings in which the use of energy is tracked.

6. Notwithstanding any other provision of law, an owner of a building who enters into a contract with a state agency for occupancy in his building:

(a) If the contract is entered into before the effective date of this act, may comply with the program; and

(b) If the contract is entered into on or after the effective date of this act, shall, to the extent practicable as determined by the Chief, comply with the program.

➥ *If an owner chooses not to comply with the program pursuant to paragraph (a), a state or local agency shall not, after the effective date of this act, enter into a contract for occupancy of a building owned by the owner, except that the Chief may authorize a state or local agency to enter into a contract for the occupancy of a building owned by an owner who does not comply with the program if the Chief determines that it is impracticable for the owner to comply with the program.*

Sec. 19.1. NRS 332.430 is hereby amended to read as follows:

332.430 A qualified service company shall provide to the ~~[Office of Energy within the Office of the Governor]~~ *Renewable Energy and Energy Efficiency Authority* information concerning each performance contract which the qualified service company enters into pursuant to NRS 332.300 to 332.440, inclusive, including, without limitation, the name of the project, the local government for which the project is being carried out and the expected operating cost savings. The ~~[Office of Energy]~~ *Renewable Energy and Energy Efficiency Authority* may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.

Sec. 19.2. NRS 333A.080 is hereby amended to read as follows:

333A.080 1. The State Public Works Board shall determine those companies that satisfy the requirements of qualified service companies for the purposes of this chapter. In making such a determination, the State Public Works Board shall enlist the assistance of the staffs of the ~~[Office of Energy within the Office of the Governor,]~~ *the Renewable Energy and Energy Efficiency Authority*, the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration. The State Public Works Board shall prepare and issue a request for qualifications to not less than three potential qualified service companies.

2. In sending out a request for qualifications, the State Public Works Board:

(a) Shall attempt to identify at least one potential qualified service company located within this State; and

(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.

3. The State Public Works Board shall adopt, by regulation, criteria to determine those companies that satisfy the requirements of qualified service companies. The criteria for evaluation must include, without limitation, the following areas as substantive factors to assess the capability of such companies:

(a) Design;

(b) Engineering;

(c) Installation;

(d) Maintenance and repairs associated with performance contracts;

(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost-savings retrofit;

(f) Monitoring projects after the projects are installed;

(g) Data collection and reporting of savings;

(h) Overall project experience and qualifications;

(i) Management capability;

(j) Ability to access long-term financing;

(k) Experience with projects of similar size and scope; and

(l) Such other factors determined by the State Public Works Board to be relevant and appropriate to the ability of a company to perform the projects.

➥ In determining whether a company satisfies the requirements of a qualified service company, the State Public Works Board shall also consider whether the company holds the appropriate licenses required for the design, engineering and construction which would be completed pursuant to a performance contract.

4. The State Public Works Board shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.

Sec. 19.3. *NRS 333A.140 is hereby amended to read as follows:*

333A.140 A qualified service company shall provide to the ~~[Office of Energy within the Office of the Governor]~~ *Renewable Energy and Energy Efficiency Authority* information concerning each performance contract which the qualified service company enters into pursuant to this chapter, including, without limitation, the name of the project, the using agency for which the project is being carried out and the expected operating cost savings. The ~~[Office of Energy]~~ *Renewable Energy and Energy Efficiency Authority* may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.

Sec. 19.4. *Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:*

1. The governing body of each local government shall, within 60 days after the effective date of this section, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(II) The Renewable Energy School Pilot Program created by NRS 701B.350;

(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or

(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 19.5. Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 19.6 and 19.7 of this act.

Sec. 19.6. To the extent money is available, the Nevada Renewable Energy Integration and Development Consortium of the Nevada System of Higher Education or its successor organization shall:

1. Serve as a resource of information concerning research that is conducted relating to renewable energy and energy efficiency in this State.

2. Work with the Nevada Institute for Renewable Energy Commercialization or its successor organization to establish a mechanism for transferring technology to the marketplace, including, without limitation, within the limits of available grant money, establishing support for start-up energy technology businesses and ensuring the appropriate protection of intellectual property.

3. Provide information concerning renewable energy and energy efficiency to the Office of Energy and the Renewable Energy and Energy Efficiency Authority.

Sec. 19.7. To the extent money is available, the Board of Regents shall establish within the fields of science, engineering, business administration and political science within the System programs designed to improve the ability of students in those fields to serve the renewable energy industry in this State.

Sec. 19.8. Section 19.4 of this act is hereby amended to read as follows:

Sec. 19.4. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of each local government shall, within 60 days after the effective date of this section, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240; *or*

(II) The Renewable Energy School Pilot Program created by NRS 701B.350 . ~~[~~,

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.]~~

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 19.9. *NRS 701.350, 701.360, 701B.170, 701B.270, 701B.530, 701B.630, 701B.770 and 701B.890 are hereby repealed.*

Sec. 20. Any kilowatts of capacity that have been unused from the inceptions of the Solar Energy Systems Incentive Program, Wind Energy Systems Demonstration Program and Waterpower Energy Systems Demonstration Program pursuant to NRS 701B.260, 701B.620 and 701B.850 until the effective date of this ~~[act]~~ *section* may be allocated pursuant to the amendatory provisions of sections 3, 6 and 9 of this act.

Sec. 20.1. On or before February 1, 2013, and on or before February 1, 2017, the Public Utilities Commission of Nevada shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report concerning the Solar Energy Systems Incentive Program created by NRS 701B.240, including, without limitation, information concerning:

1. For each category of participants in the Solar Program, the number of solar energy systems installed;

2. The amount of funding provided by utilities for the installation of distributed generation systems pursuant to paragraph (b) of subsection 1 of NRS 701B.260;

3. Any other information relating to participation in, funding of and administration of the Solar Program which the Commission determines is relevant; and

4. Any recommendations concerning the continuation of the Solar Program and the levels of funding provided by utilities.

Sec. 20.3. The Public Utilities Commission of Nevada shall, on or before July 1, 2010, adopt such regulations as are necessary to carry out the amendatory provisions of section 3 of this act.

Sec. 20.5. ~~[1. There is hereby appropriated from the State General Fund the sum of $25,000 to the Interim Finance Committee for allocation during the Fiscal Years 2009-2010 and 2010-2011 to the Office of Energy, which money may be used only to hire a qualified, independent consultant who must be an expert in economics, finance or engineering. The independent consultant shall act as a liaison between the Office of Energy, the Public Utilities Commission of Nevada and providers of electric service in this State to coordinate the efforts of those entities to implement the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821. Money appropriated pursuant to this section may only be allocated by the Interim Finance Committee upon demonstrated need by the Office of Energy and approval by the State Board of Examiners.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be allocated by the Interim Finance Committee after June 30, 2011, and must be reverted to the State General Fund on or before September 16, 2011. Any remaining balance of the money allocated to the Office of Energy pursuant to subsection 1 must not be committed for expenditure after June 30, 2011, must not be spent for any purpose after September 16, 2011, and must be reverted to the State General Fund on or before September 16, 2011.]~~ *(Deleted by amendment.)*

Sec. 20.7. *1. The Director of the Office of Energy shall apply for and accept any grant, appropriation, allocation or other money available pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to assist the Director in carrying out his duties and the duties of the Office of Energy.*

2. The Nevada Energy Commissioner shall apply for and accept any grant, appropriation, allocation or other money available pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to assist the Commissioner in carrying out his duties and the duties of the Renewable Energy and Energy Efficiency Authority.

Sec. 20.8. *For the period beginning July 1, 2009, and ending June 30, 2010, the Public Utilities Commission of Nevada shall levy and collect from electric utilities the annual assessment described in NRS 704.033, as amended by section 11.7 of this act, that must be:*

1. For the use of the Renewable Energy and Energy Efficiency Authority, 0.21 mills; and

2. For the use of the Office of Energy, 0.07 mills,

➥ unless the Legislature or the Interim Finance Committee establishes a different amount on or before June 15, 2009.

Sec. 20.9. *1. Any regulation adopted by the Director of the Office of Energy before the effective date of this section, the responsibility for which has been transferred pursuant to the provisions of this act to the Nevada Energy Commissioner:*

(a) Remains in force until repealed or replaced by the Commissioner; and

(b) May be enforced by the Commissioner.

2. The Green Building Rating System adopted by the Director of the Office of Energy pursuant to NRS 701A.100 before the effective date of this section:

(a) Remains in force until repealed or replaced by the Nevada Energy Commissioner; and

(b) May be enforced by the Commissioner.

Sec. 21. *1.* This *section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this* act ~~[becomes]~~ *become* effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.93, 1.95, 4.3 to 9, inclusive, and 19.4 of this act expire by limitation on June 30, 2011.

3. Sections 1.53 and 19.8 of this act become effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

701.350 Creation; appointment of members; qualifications for members; terms of members; vacancies; requirements and restrictions concerning members who are public officers or employees.

701.360 Selection and terms of Chairman and Vice Chairman; vacancies; quorum; meetings; members serve without compensation; per diem and travel expenses; Consumer's Advocate to provide support and assistance.

701B.170 "Task Force" defined.

701B.270 Withdrawal of participant for noncompliance; forfeiture of incentives.

701B.530 "Task Force" defined. [Effective through June 30, 2011.]

701B.630 Withdrawal of participant for noncompliance; forfeiture of incentives. [Effective through June 30, 2011.]

701B.770 "Task Force" defined. [Effective through June 30, 2011.]

701B.890 Withdrawal of participant for noncompliance. [Effective through June 30, 2011.]

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, McGinness, Care, Washington, Carlton and Cegavske.

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

SENATOR TOWNSEND:

This amendment is a rewrite of the original bill. It contains substantial changes from a policy perspective. These changes are important.

I would like to thank Senator Schneider who spearheaded this and our Majority Leader who drove this issue from where we are today to where we are going in the future.

This amendment is a restructuring of the Office of Energy. It narrows the scope of the Office and creates the Renewable Energy and Energy Efficiency Authority. There will be a Commissioner of that Authority. The Director of the Energy Office will have a narrow scope of responsibility from a point person to a liaison to the federal government. The new Renewable Energy and Energy Efficiency Authority will take over the majority of the responsibilities of the Energy Office. The new Commissioner will sit as head of that Authority and will sit as head of the State and Local Government Panel on Renewable and Energy Efficiency. The Authority has appointments in it to these new Boards.

Individuals with expertise will serve in the rolls of helping the new Commissioner direct policy. This new Authority will be independent from the Public Utilities Commission (PUC), with responsibilities to drive policy in the State of Nevada regarding energy in general and, specifically, renewable energy and energy efficiency. This is a bold move nation wide. This proposal will advance the State to a level for which we have long waited. Those who worked on this should be given a great deal of credit.

With this change comes a different funding mechanism. The Mill Tax, collected by the PUC, will be used to fund the new Authority and the Commissioner. This allows them to have a consulting budget with legislative oversight, which is crucial. If the Legislature is not in session, the Interim Finance Committee (IFC) will oversee those hired for the new Authority. They will keep track of all of the money collected and utilized, not only in the Energy Office but, also, by the new Authority.

Another major change with this amendment has to do with our solar-energy incentive programs. They will be increased by 9 percent per year allowing for greater use of Distributive Generation. That is the energy you generate by putting solar panels on a user's own home or on small commercial developments. This section focuses on incentivizing individuals to try to shave some of the peak-time usage. The biggest consumer and company problem in southern Nevada is trying to keep peak usage to a minimum because of the intense heat. There are buying complexities and costs and problems associated with providing electricity during the most difficult times. This portion of the bill is geared, specifically, to have individuals help themselves during their peak load. Base load is expensive on its own whether through the use of one of our own geothermal components or whether it is through the use of natural gas or coal. When peak power is purchased on the spot market, something that has happened during the last few summers, there is not an option as to negotiating the price.

The next component creates the ability for the utility to recapture some of the lost revenue as a result of the efforts in energy efficiency. Do not misunderstand, this is not full decoupling. Hopefully, usage will drop which will be beneficial to everyone in the State, north and south. Some of those revenues can be recaptured.

SENATOR MCGINNESS:

Thank you, Mr. President. I have some concerns concerning our rural counties with abatements from property tax and sales tax in trying to encourage energy companies. On page 19, section 1.91, the amount of the incentive is discussed. I would like to be certain the communities are being given the opportunity to address the abatements and incentives and that they do not come from their financial bottom line.

SENATOR TOWNSEND:

With regard to section 1.91, "the amount of the incentive for which an applicant is eligible is determined on the date." We are not changing any of the current abatements. There is an Assembly bill that deals specifically with adjustments to abatements because of their impact on local government. The bill provides a different component of incentive. This amendment clarifies how it is to be applied. This addresses the issue of an incentive that is given to an individual if they do not use it and what the process is when it is not used by the individual. There is no additional incentive that affects local government as we know it today. It is hoped that the trailer bill coming from the Assembly clarifies and helps local government because that was the intent. We know what the tremendous impact is to local government.

SENATOR CARE:

Thank you, Mr. President. I have not heard any of the testimony on this issue, but I do have questions on the amendment. I have some trepidation about this issue because last session we had to repair the work done on LEED in the 73rd Legislative Session. Sometimes the best estimates are not anywhere close to reality.

On page 23, section 3, subsection 7, there is discussion about the three-year period, payment of incentives. The figures used, $78,260,000; $255,270, need explanation. On page 29, section 11.3 also needs explanation. This section concerns regulations authorizing an electric utility to recover the net-revenues differential. On page 30, section 11.5, subsection 9, the section deals with "persons who, for compensation own or operate individual systems." Does this mean small business persons? Who can sell? On page 36, section 13.5 at the bottom, the calendar years 2020 to 2024 shows 22 percent and the following page 2025, 25 percent. What do those percentage figures mean?

SENATOR TOWNSEND:

Page 23 states, "the Commission shall not authorize the payment of an incentive for the installation of Distributive Generations Systems." The purpose of the figures for $78,260,000 and $255,270 is to provide a cap. That does not mean that the incentives will actually occur. This cap is there so that the utility and investment community can plan on what their total commitment would be if everyone exercised their right under this incentive program. The program is not likely to reach that level, but they know those figures are the maximum for investment purposes. The investment community looks at what the downside of any potential risk is. These are the incentives we provide to individuals to put these systems on their homes. I will explain a Distributive Generation Component. Right now, there is a 30-percent federal tax credit. That is not cash to you. It is a tax credit that comes to an individual who puts solar PV panels on their home. The State has another component which through the utility provides a cash incentive. That is to help a person buy this. The challenge is to the cost of these because they run, for the average home, between $30,000 and $40,000. The homeowner must spend a significant amount of money to put these in. Over time, particularly in southern Nevada, the investment helps to shave the peak-power consumption. The incentive described in this amendment is that portion that the utility actually gives in cash. That runs between $7,000 and $9,000. That is what they give to the consumer when they install one of these systems. There is still a gap, and the consumer does not get the tax credit until the next year. That is the maximum exposure the utility has.

Let us look on page 29, section 11.3, "Commission shall adopt regulations authorizing electric utility to recover the net-revenue differential that is attributable to the decrease." The purpose of that language is simple. Encouraging every person to control their own destiny relative to their electric usage, as we have done with natural gas, creates a situation where you have an economic anomaly. The electric utility has built the entire infrastructure, generation, transmission and distribution and they have put it to your home and business. They have incurred that expense. They make up some of their revenue in your electric bill relative to your usage of the commodity. As you reduce the usage of the commodity, though good for the consumer, the expense of the hardware continues. This allows the utility, if there is a drop, to recover some of the lost revenues.

Subsection 9 on page 30 is about persons who for compensation own or operate individual systems which use renewable energy. This is directed at encouraging individuals to become a third party. They are the ones who will put the units in, finance them but cannot be in the utility business. They cannot install it in your home and sell whatever excess you generate—sell it to someone else. That will not be allowed. Individuals will not be allowed to have excess and to sell it to someone else. If they have excess at their home, they have to put it back on the grid. The term "zero energy home" applies that situation. They put as much back into the grid as they use.

On page 36, "with regard to the calendar years," we were first, second or third to establish a renewable-portfolio standard. That has to do with the total usage in the State of Nevada and carving out a maximum percentage that the utility will have from renewable sources. We started humbly, but we were ahead of everyone else. This is an effort to move that along, to stay ahead of everyone else and to encourage the State and the two operating companies, to move the percentage of our total usage from where we are today and move it up by calendar year. In the calendar years 2020 and 2024, not less than 22 percent of the total amount of the electricity shall be from renewable-energy systems. We would like to reach 25 percent by 2025. The base load in the north is about 1100 megawatts, 2,600 megawatts in southern Nevada. Southern Nevada is the anomaly. We only peak up to 1,700 megawatts in the north, but in the south, it is 6,100 megawatts. That is probably the largest swing in the country from base load to peak load. The utility is required to meet 25 percent of that through either renewable plans or energy efficiency. We are the only state in the country that allows energy efficiency to be part of the renewable-portfolio energy standard. That allows us to help individuals to not only control their usage and to incentivize the company to help them control their own usage, but it incentivizes the companies through this mandate to acquire or develop renewable energy of their own. We are blessed in this State. We have options. We have solar, geothermal and wind. We are working on biomass. This encourages all of that. This sets a standard, a policy by us to drive the State in that direction. It is the right policy.

SENATOR WASHINGTON:

Thank you, Mr. President. The Senator stated in his remarks that the Authority is not part of the PUC. What was the reasoning behind that? Was the PUC not able to do the requirements that were listed in this amendment?

SENATOR TOWNSEND:

Thank you, Mr. President. The PUC is a regulatory body that deals specifically with applications by the utility, the consumer advocate or interveners and deals specifically with a number of things.

One item is the Utility Resource Planning Act, which has to do with the utilities application and where they want to be over the next 20 years. They have to accept those. They also deal with rates. There are GTER rate cases, BTER cases and DEAA cases. The PUC is the regulatory agency. This new Authority is a giant leap forward for any state. For us to lead the way is exciting. This drives the policy of where the utilities, where the customers, where renewable energy and where energy efficiency should be year after year. The Authority is not going to have anything to do with rates. It will provide research and analysis on the policy side of energy and share this information with the PUC and the Legislature. The Utility Resource Plan has to be submitted to the PUC every three years and is amended on a regular basis based on changing conditions. The Authority will have tremendous influence on the long-term role of local

government. The Local Government Panel in this amendment addresses how they are going to design better buildings and how they will retrofit buildings. This Authority will be the driving body of policy for the type of appliances, the type of cars and trucks we are going to drive and the type of appropriate infrastructure that is needed. It will be an exciting area. There is flexibility with legislative oversight so that we are not married to salaries as we traditionally have been. This is an opportunity for us to get the best people. There is a complete separation of the PUC and the Authority. There is no relationship to one another except that they are both funded by the Mill Tax. The State Energy Office will stay in place, but they will be the point person for the relationship of the federal government with regard to the federal-stimulus dollars. We have to maintain that Office. They will gather many statistics, but they will also be the legislative liaison to the federal government.

SENATOR WASHINGTON:

In this bill, there are incentives for local government and private industry to implement retrofits to their buildings. If the local governments or those in the private sector decide not to retrofit with solar, wind, biomass or geothermal, will there be disincentives to penalize them for not complying with the retrofits?

SENATOR TOWNSEND:

The purpose of the Commissioner and the Authority is to work with local government and the private sector to come up with policies to best drive those retrofits. There is no disincentive, no penalties if local government does not do the schools, etc. How to incentivize them to follow the lead, is the question. Does it take financial incentives, design incentives, time? That has to all be coordinated. Most of them are so busy doing what they do inside the buildings, it is difficult to figure out what to do with the buildings themselves. This is crafted to allow them to sit with the Authority. The Commissioner and the Authority will drive them as a group to do something. When the Authority comes back to the Legislature and testifies in IFC or the Committee on Finance and says this is the expense for energy, there is a point at which you have to have an answer for the rising energy costs. As they move through the retrofit process to redesign buildings as driven by the Authority, then, they can offer a legitimate number for what it costs. We want this to be an incentive-based system.

SENATOR WASHINGTON:

You said there is no decoupling in this bill. There are some references to decoupling. What about the ability when these natural resources are used to transmit the additional power not only within the State limits but also outside the State? This would give us opportunity to gain revenues from outside the State.

SENATOR TOWNSEND:

In section 11.3, if you were to fully decouple the electric rates, you would have a guaranteed rate of return for all of the infrastructure that is out there; the transmission, generation and distribution. Then, there would be a separate component for the commodity. This does not do that. This allows the utility to state, in front of the PUC, that based on what the State Legislature did relative to energy efficiency, here is what was measured and what revenue they have lost. They are not guaranteed to get all of that back. They are allowed to petition the PUC to review their case. They can recover some, all or none of their lost revenue. Under full decoupling, they would get it all.

There is a twofold problem in selling renewable energy out of state. Transmission is the first. Hopefully, we will have a transmission connection between north and south soon. It is costly, but the reward is simple. You can wheel power that is generated in our renewable energy zones. There are hot zones for geothermal, which is a great base load. There are hot zones for solar and wind. The problem is we do not have transmission lines to establish the relationship between the north and the south. You cannot have distribution lines that go to those hot zones to pull that energy from remote locations. When a base load need is established, the amount of renewable energy available to the State of Nevada that can be exported after we have fulfilled our needs is unlimited. That is not going to happen over night. That is why the Authority is such an important component to make those plans about transmission, about distribution and about those hot zones.

Those are crucial to the long-term plan. If the economy rebounds in an average manner, within five years, we could meet our needs and could continue to meet the portfolio standard and still to be able to generate enough renewable energy to sell outside the State. That is not too hopeful. It is possible.

SENATOR WASHINGTON:

Page 11, section 1.55, lines 42 through 46, deal with the educational aspects of renewable energy. It says, "Promotion and development in the State for curriculum from K-12." The Commission would set the curriculum for grades K-12. Why is there no connection with the Department of Education in developing that curriculum? It refers to higher education, but it does not refer to the Department of Education.

SENATOR TOWNSEND:

That section states, "The Commissioner shall prepare a comprehensive state energy plan which provides for the promotion of…"

The Committee felt that this area was so focused on the expertise of the Authority and Commissioner, that the Committee wanted to keep the focus on writing the curriculum for both K-12 and higher education. This is an essential component to have our children and grandchildren understand that their behavior has a significant effect on the cost of energy. The focus should remain with the Commissioner on how they build, how they understand conservation by not leaving lights on and how they use their cars. I understand what you are asking, but this was important to us, and we did not want to get lost in some of the bureaucracy that occurs. This will be a bureaucracy, but we wanted to make a large step to say to the public and to say to our children, we need to control what we can control. Whether it is national security or state security or state energy independence, which is what this is about, we can do it. We will give it our all. That is why it is designed this way.

SENATOR WASHINGTON:

We will find out what the effect will be on the ratepayer. They will pay the cost for the exploration and the development of these renewable energies. I hope the ratepayers will see a benefit in the reduction of their rates with homes that are more efficient and cars that are more efficient and not find this is an expense to them.

SENATOR TOWNSEND:

I appreciate the comments. It is important to understand the distinction with regard to commodities. Renewable energy is a commodity for which there is no cost other than for the original investment. We pay nothing for the sun. We pay nothing for geothermal. We pay nothing for wind. We pay little for biomass. A 250-megawatt power plant driven by gas or coal requires that we buy those commodities on the open market. Those commodities fluctuate depending on supply and demand. The costs are recovered through the Deferred Energy Account Adjustment. That is the big number you see when you see an energy-rate case. Those will go away, eventually, because we will not be dependent on natural gas or coal. As technology evolves, the less we rely on those and the smaller the DEAA becomes. That is the absolute goal. Get rid of the commodity costs. Over a short period, with the advancements of technology, with everyone demanding this, you will see a dramatic change in the financing of utilities and the costs to the consumer. We all believe that commodity is the issue crucial to this debate. Since we own the commodity, no one can ever take that away from us;, the more we utilize our own commodity and the less we utilize someone else's, the better off we will be. Thank you to the Majority Leader, our Chair, Senator Schneider, for allowing me to address this issue before this body today.

SENATOR CARLTON:

I supported this bill coming out of committee. The cost of change is not cheap. We have to move forward. Renewable energy is the future for my children, grandchildren and great-grandchildren. I have faith that the PUC will do its job in dealing with these renewable-energy issues. The only concern I had in moving this bill out of committee was the decoupling issue. Keep in mind, everything that we do will have an effect on the ratepayer.

There is no way around it. Are those pennies, dimes and quarters we are paying now going to save us hundreds of dollars in the future? I believe they will.

I have spoken with the Consumer Advocate and have expressed my concerns in the committee. I hope the people who review the regulations on decoupling are careful to look at them. There was a distinct thread of irony that ran through this debate. It was, "How much is this going to cost the company? How much is this going to cost the ratepayer?" Yet, within decoupling, we are making certain that profits are still being generated through energy efficiency and conservation. I hope they will be done fairly and equitably and be reviewed closely.

SENATOR CEGAVSKE:

The issues, brought up, are important for this bill. My colleague from Clark District No. 7 brought up the issue of the "Green Buildings." We have to be vigilant about the energy bills we are passing this Session. It is the ratepayers, the taxpayers, who will be absorbing what we send out of these Chambers. It is crucial that we keep monitoring these issues so that we know exactly what we are doing. In this economic time, it is especially important.

The major issue I have had with every energy bill that has come before us is the lack of mandate for recycling. Unfortunately, that issue is not in this bill. I would like to have something put in one of the bills about recycling. We need the education. We have a bill to make certain that all of the state agencies put in energy efficient light bulbs, but we have done nothing to make certain those products are disposed of properly. They contain lead and other toxic chemicals. You have to do something about recycling before you mandate someone use the item. There needs to be a responsible way to dispose of them. Whatever we do, we have to make certain we take care of the recycling issue.

I appreciate the work of our Chair and the seven members of the committee. We need to be certain we revisit these issues each session to be certain we have a great product for the State of Nevada.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 395.

Bill read third time.

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

Amendment No. 664.

"SUMMARY—Makes various changes regarding renewable energy and energy efficiency and alters the composition of the Commission on Economic Development. (BDR 58-1219)"

"AN ACT relating to ~~[state financial]~~ *governmental* administration; ~~[making various changes regarding renewable energy and energy efficiency;]~~ *revising provisions governing the issuance of certain permits by the Public Utilities Commission of Nevada pursuant to the Utility Environmental Protection Act;* altering the composition of the Commission on Economic Development; ~~[making certain appropriations;]~~ *requiring the Chief of the Purchasing Division of the Department of Administration to adopt regulations establishing standards for the procurement of certain appliances, equipment, lighting and other devices; requiring the State Public Works Board to adopt certain standards concerning the efficient use of water and energy; requiring licensed vehicle dealers to provide certain information concerning vehicle emissions;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Sections 1 and 2 of this bill: (1) expand the types of facilities relating to renewable energy for which a tax abatement may be granted; (2) provide that certain facilities must have a generating capacity of 1 megawatt instead of 10 kilowatts; and (3) add to the definition of "renewable energy" hydrogen derived from renewables.~~

~~Section 3 of this bill incrementally extends and increases the portfolio standards for providers of electric service so that, by 2025, at least 25 percent of the electricity sold to retail customers by those providers must be derived from portfolio energy systems or efficiency measures.]~~

Section 4 of this bill alters the definition of "utility facility," as that term is used in the Utility Environmental Protection Act which provides for the issuance of permits for the construction of utility facilities, to require a nameplate capacity of not more than 70 megawatts rather than a generating capacity of not more than 35 megawatts.

Section 5 of this bill exempts certain renewable energy facilities from certain findings that are a condition precedent to permitting under the Utility Environmental Protection Act.

Sections 6 and 24 of this bill alter the composition of the Commission on Economic Development to require that at least two of the appointed members be from counties whose population is less than 100,000. (NRS 231.040)

Section 8 of this bill requires the Chief of the Purchasing Division of the Department of Administration to adopt regulations establishing standards favoring the procurement of appliances, equipment, lighting and other devices that bear the "Energy Star" label or meet other requirements prescribed by federal law unless to do so would not be cost-effective.

Section 10 of this bill requires the State Public Works Board to adopt standards and performance guidelines concerning the efficient use of water and energy.

~~[Sections 13 and 22 of this bill eliminate abatements from the local school support tax but retain abatements from other local sales and use taxes.~~

~~Section 15 of this bill requires, with respect to tax abatements relating to renewable energy, that the Commission on Economic Development forward certificates of eligibility to the Office of Energy.~~

~~Section 16 of this bill states that businesses which receive a partial abatement pursuant to NRS 360.750 must annually file with the Department of Taxation a sworn certification of compliance with the terms of the abatement.]~~

Section 18 of this bill requires vehicle dealers in Nevada, beginning ~~[with the 2012 model year and thereafter, to ensure that each new vehicle offered for sale is accompanied by]~~ *on January 1, 2010, to provide upon request* a disclosure of the ~~[vehicle's]~~ estimated carbon dioxide emissions *of each new vehicle offered for sale,* if such information is available.

~~[Section 22.5 of this bill appropriates $25,000 to the Interim Finance Committee for allocation to the Office of Energy, upon a showing of need, to~~

~~cover the costs of adopting the regulations which the Director of the Office is required to adopt pursuant to chapter 701 of NRS.]~~

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

Section 1. ~~[NRS 701A.220 is hereby amended to read as follows:~~

~~701A.220 1. If a partial abatement from the taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy [or] *, a facility for the transmission of electricity produced from renewable energy, a facility for the manufacturing of renewable energy devices,* a facility for the production of an energy storage device [:] *or a facility for the research and development of renewable energy:*~~

~~(a) The partial abatement : [must be:]~~

~~(1) [For] *Must be for* a duration of *not more than* 10 years;~~

~~(2) [Equal to 50] *May be equal to up to 100* percent of the taxes on real and personal property payable by the facility each year; and~~

~~(3) Administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall:~~

~~(1) Notify *the Department of Taxation and* the county assessor of the county in which the facility is located of the approval of the partial abatement; and~~

~~(2) Advise *the Department of Taxation and* the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.~~

~~2. *In addition to any partial abatement described in subsection 1, the Commission on Economic Development may approve a partial abatement from the taxes imposed pursuant to chapter 361 of NRS on lines and collector systems that transmit electricity from a facility for the generation of electricity from renewable energy to interstate transmission lines which transmit the electricity to market. The abatement described in this subsection must not exceed 25 percent.*~~

~~*3.* As used in this section:~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

~~(1) Agricultural crops and agricultural wastes and residues;~~

~~(2) Wood and wood wastes and residues;~~

~~(3) Animal wastes;~~

~~(4) Municipal wastes; and~~

~~(5) Aquatic plants.~~

~~(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

~~(1) Uses renewable energy as its primary source of energy; and~~

~~(2) Has a generating capacity of at least~~ [10 kilowatts.] ~~*1 megawatt.*~~

~~➥ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(d) "Renewable energy" means~~ [:] ~~*a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*~~

~~(1) Biomass;~~

~~*(2) Geothermal energy;*~~

~~*(3) Hydrogen derived from renewables;*~~

~~*(4)* Solar energy;~~ [~~or~~

~~(3) Wind.~~]

~~*(5) Waterpower; or*~~

~~*(6) Wind.*~~

~~➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.~~

~~*(e) "Renewable energy device" means a system, mechanism or series of mechanisms that produce renewable energy.]*~~ *(Deleted by amendment.)*

Sec. 2. ~~[NRS 701A.230 is hereby amended to read as follows:~~

~~701A.230 *1.* If an application for an abatement from taxes pursuant to [NRS 374.357]~~ *section 13 of this act* is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy [or]~~*, a facility for the transmission of electricity produced from renewable energy, a facility for the manufacturing of renewable energy devices,* a facility for the production of an energy storage device [:] ~~*or a facility for the research and development of renewable energy:*~~

~~[1.] *(a)* The taxpayer is eligible for the abatement for 2 years.~~

~~[2.] *(b)* The abatement must be administered and carried out in the manner set forth in NRS 360.750.~~

~~*2. In addition to any abatement described in subsection 1, the Commission on Economic Development may approve an abatement from the taxes imposed pursuant to chapter 361 of NRS on lines and collector systems that transmit electricity from a facility for the generation of electricity from renewable energy to interstate transmission lines which transmit the electricity to market.*~~

~~3. For the purposes of this section and the abatement, unless the context otherwise requires:~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

~~(1) Agricultural crops and agricultural wastes and residues;~~

~~(2) Wood and wood wastes and residues;~~

~~(3) Animal wastes;~~

~~(4) Municipal wastes; and~~

~~(5) Aquatic plants.~~

~~(b) "Eligible machinery or equipment" means:~~

~~(1) If the business that qualifies for the abatement is a facility for the production of an energy storage device, machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:~~

~~(I) Buildings or the structural components of buildings;~~

~~(II)~~ [Equipment used by a public utility;

~~(III)~~] ~~Equipment used for medical treatment;~~

[~~(IV)~~] ~~*(III)* Machinery or equipment used in mining;~~

[~~(V)~~] ~~*(IV)* Machinery or equipment used in gaming; or~~

[~~(VI)~~] ~~*(V)* Aircraft.~~

~~(2) If the business that qualifies for the abatement is a facility for the generation *and transmission* of electricity from renewable energy, all the machinery and equipment that is used in the facility to~~ [collect] ~~*:*~~

~~*(I) Collect* and store the renewable energy~~ [and to convert] ~~*;*~~

~~*(II) Convert* the renewable energy into electricity~~ [.] ~~*; and*~~

~~*(III) Transmit the electricity*.~~

~~*(3) Lines and collector systems as described in subsection 2.*~~

~~(c) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(d) "Facility for the generation *and transmission* of electricity from renewable energy" means a facility for the generation *and transmission* of electricity that:~~

~~(1) Uses renewable energy as its primary source of energy; and~~

~~(2) Has a generating capacity of at least~~ [10 kilowatts.] ~~*1 megawatt.*~~

~~*.* The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy , [and] to convert the renewable energy into electricity~~ [.] ~~*and to transmit the electricity*. The term does not include a facility that is located on residential property.~~

~~(e)~~ ["Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.

~~(f)~~] ~~"Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

~~(1) Biomass;~~

~~(2)~~ [Fuel cells;

~~(3)~~] ~~Geothermal energy;~~

[~~(4)~~] ~~*(3) Hydrogen derived from renewables;*~~

~~*(4)* Solar energy;~~

~~(5) Waterpower; and~~

~~(6) Wind.~~

~~.~~ ~~The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.~~

~~*(f) "Renewable energy device" means a system, mechanism or series of mechanisms that produce renewable energy.]*~~ *(Deleted by amendment.)*

Sec. 3. ~~[~~NRS 704.7821 is hereby amended to read as follows:~~]~~

~~704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:~~

~~(a) For~~ *the period consisting of* ~~calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that~~ [calendar year.] *period.*

~~(b) For~~ *the period consisting of* ~~calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that~~ [calendar year.] *period.*

~~(c) For~~ *the period consisting of* ~~calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that~~ [calendar year.] *period.*

~~(d) For~~ *the period consisting of* ~~calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that~~ [calendar year.] *period.*

~~(e) For~~ *the period consisting of* ~~calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that~~ [calendar year.] *period.*

~~(f) For~~ *the period consisting of* ~~calendar~~ [year 2015 and for each calendar year thereafter,] *years 2015 and 2016 and the period consisting of calendar years 2017 and 2018,* ~~not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during~~ [that] *each* [calendar year.] *period.*

~~(g) For the period consisting of calendar years 2019 and 2020, the period consisting of calendar years 2021 and 2022 and the period consisting of calendar years 2023 and 2024, not less than 22 percent of the total amount of electricity sold by the provider to its retail customers in this State during each period.~~

~~(h) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during each such calendar year.~~

~~2. Except as otherwise provided in subsection 3, in addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:~~

~~(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during~~ [each calendar year,] ~~:~~

~~*(1) The periods consisting of calendar years 2009 and 2010, 2011 and 2012, and 2013 and 2014*, not less than 5 percent of that amount must be generated or acquired from solar renewable energy systems [.] *; and*~~

~~*(2) The periods consisting of calendar years 2015 and 2016, 2017 and 2018, 2019 and 2020, 2021 and 2022, and 2023 and 2024, and calendar year 2025 and each calendar year thereafter, not less than 6 percent of that amount must be generated or acquired from solar renewable energy systems.*~~

~~(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year [,] *or period of calendar years*, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year [,] *or period of calendar years*, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.~~

~~(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:~~

~~(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and~~

~~(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.~~

~~3. The provisions of paragraphs (b) and (c) of subsection 2 do not apply to a provider of new electric resources pursuant to chapter 704B of NRS with respect to its use of an energy efficiency measure that is financed by a customer, or which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, except that, of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year [,] *or period of calendar years*, not more than 25 percent of that amount may be based on energy efficiency measures.~~

~~4. If, for the benefit of one or more retail customers in this State, the provider, or the customer of a provider of new electric resources pursuant to chapter 704B of NRS, has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the~~

~~consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.~~

~~5. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.~~

~~6. Except as otherwise provided in subsection 7, each provider shall comply with its portfolio standard during each calendar year [.] *or period of calendar years, as applicable.*~~

~~7. If, for any calendar year [,] *or period of calendar years, as applicable,* a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year [,] *or period of calendar years,* there is not or will not be a sufficient supply of electricity *for any reason, including, without limitation, the inability of the provider to obtain the necessary permits or other approvals from any governmental entity for the construction of transmission facilities necessary to transmit renewable energy to the provider's system* or *there is not or will not be* a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year [,] *or period of calendar years,* from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.~~

~~8. The Commission shall adopt regulations that establish:~~

~~(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.~~

~~(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.~~

~~9. As used in this section:~~

~~(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.~~

~~(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.~~

~~(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.]~~ *(Deleted by amendment.)*

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a ~~[generating]~~ *nameplate* capacity of not more than ~~[35]~~ *70* megawatts, including, without limitation, a net metering system, as defined in NRS 704.771.

➥ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 5. NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:

(a) The nature of the probable effect on the environment;

(b) ~~[The]~~ *Except with respect to a renewable energy facility that is built in Nevada pursuant to NRS 704.820 to 704.900, inclusive, and emits greenhouse gases, the* extent to which the facility is needed to ensure reliable utility service to customers in this State;

(c) That the need for the facility balances any adverse effect on the environment;

(d) That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives;

(e) That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has obtained, or is in the process of obtaining, all other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances; and

(f) That the facility will serve the public interest.

2. If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a modification. If the applicant has not obtained all the other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances as of the date on which the Commission decides to issue a permit, the Commission shall condition its permit upon the applicant obtaining those permits and approvals.

3. The requirements set forth in paragraph (f) of subsection 1 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.

Sec. 6. NRS 231.040 is hereby amended to read as follows:

231.040 1. The Commission on Economic Development is composed of the Lieutenant Governor, who is its Chairman, and six members who are appointed by the Governor.

2. The Governor shall appoint as members of the Commission persons who *are residents of Nevada and who* have proven experience in economic development which was acquired by them while engaged in finance, manufacturing, mining, agriculture, the field of transportation, or in general business other than tourism or gaming.

3. The Governor shall appoint ~~[at]~~ *to the Commission:*

(a) At least one member who is a resident of ~~[:~~

~~(a)]~~ Clark County.

(b) *At least one member who is a resident of* Washoe County.

(c) ~~[A county]~~ *At least two members who are residents of counties* whose population is ~~[50,000 or less.]~~ *less than 100,000.*

Sec. 7. ~~[NRS 266.267 is hereby amended to read as follows:~~

~~266.267 1. A city council shall not enter into a lease of real property owned by the city for a term of 3 years or longer or enter into a contract for the sale of real property until after the property has been appraised pursuant~~

~~to NRS 268.059. Except as otherwise provided in this section, paragraph (a) of subsection 1 of NRS 268.050 and subsection 3 of NRS 496.080:~~

~~(a) The sale or lease of real property must be made in the manner required pursuant to NRS 268.059, 268.061 and 268.062; and~~

~~(b) A lease or sale must be made at or above the highest appraised value of the real property as determined pursuant to the appraisal conducted pursuant to NRS 268.059.~~

~~2. The city council may sell or lease real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the city which is eligible pursuant to [NRS 374.357] *section 13 of this act* for an abatement from [the] *local* sales and use taxes [imposed pursuant to chapter 374 of NRS.] *, as that term is defined in NRS 360.750.]*~~ *(Deleted by amendment.)*

Sec. 8. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Chief shall adopt regulations which set forth standards to be used by using agencies when purchasing new appliances, equipment, lighting and other devices that use electricity, natural gas, propane or oil. Except as otherwise provided in subsection 2, the standards must require that such new appliances, equipment, lighting and other devices have received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor, or meet the requirements established pursuant to 48 C.F.R. § 23.203.

2. The standards described in subsection 1 do not apply insofar as:

(a) No items in a given class of appliances, equipment, lighting or other devices have been evaluated to determine whether they are eligible to receive the Energy Star label or have been designated by the Federal Government to meet the requirements established pursuant to 48 C.F.R. § 23.203; or

(b) The purchase of new appliances, equipment, lighting or other devices that have received the Energy Star label would not be cost-effective in an individual instance, comparing the cost of the item to the cost of the amount of energy that will be saved over the useful life of the item.

Sec. 9. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable ~~[, the]~~ *:*

(1) The imposition of the inverse preference described in NRS 333.336.

(2) The required standards adopted pursuant to section 8 of this act.

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 10. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of the design and construction of buildings or other projects of this State, the Board shall adopt by regulation:

(a) Standards for the efficient use of water.

(b) Standards for the efficient use of energy, including, without limitation, the use of sources of renewable energy.

(c) Performance guidelines for new, remodeled and renovated buildings.

(d) Performance guidelines for retrofit projects, including, without limitation, guidelines for:

(1) Energy consumption.

(2) The use of potable water.

(3) The use of water for purposes relating to landscaping.

(4) The disposal of solid waste.

2. The standards and performance guidelines adopted in accordance with subsection 1 must include a mechanism for their evaluation and revision to ensure that such standards and guidelines:

(a) Are cost-effective over the life of the applicable project.

(b) Produce certain threshold levels of cost savings.

3. In adopting the standards and performance guidelines pursuant to subsection 1, the Board may consider, without limitation:

(a) The Leadership in Energy and Environmental Design Green Building Rating System established by the ~~[United States]~~ U.S. Green Building Council or its successor;

(b) The Green Globes assessment and rating system developed by the Green Building Initiative or its successor;

(c) The standards established by the United States Environmental Protection Agency pursuant to the Energy Star Program;

(d) The standards established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers or its successor;

(e) The criteria established pursuant to the Federal Energy Management Program established by the United States Department of Energy; and

(f) The criteria established by the International Energy Conservation Code.

4. The regulations adopted pursuant to this section must include provisions for their enforcement.

5. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 701A.220.

Sec. 11. NRS 341.119 is hereby amended to read as follows:

341.119 1. Upon the request of the head of a state agency, the Board may delegate to that agency any of the authority granted the Board pursuant to NRS 341.141 to 341.148, inclusive ~~[.]~~ *, and section 10 of this act.*

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the Board concerning a construction project or to approve the advance planning of a project.

Sec. 12. NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the Board as provided in NRS 341.141 to 341.148, inclusive ~~[.]~~ *, and section 10 of this act.*

Sec. 13. ~~[Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the local sales and use taxes*~~

~~*imposed on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.*~~

~~*2. Except as otherwise provided in NRS 701A.230, if an application for an abatement is approved pursuant to NRS 360.750:*~~

~~*(a) The taxpayer is eligible for an abatement from the local sales and use taxes for not more than 2 years for machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.*~~

~~*(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.*~~

~~*3. For the purposes of this section, except as otherwise provided in NRS 701A.230 or unless the context otherwise requires:*~~

~~*(a) "Eligible machinery or equipment" means machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:*~~

~~*(1) Buildings or the structural components of buildings;*~~

~~*(2) Equipment used for medical treatment;*~~

~~*(3) Machinery or equipment used in mining;*~~

~~*(4) Machinery or equipment used in gaming; or*~~

~~*(5) Aircraft.*~~

~~*(b) "Local sales and use taxes" has the meaning ascribed to it in NRS 360.750.]*~~ *(Deleted by amendment.)*

Sec. 14. ~~[NRS 360.225 is hereby amended to read as follows:~~

~~360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:~~

~~(a) A partial abatement of property taxes pursuant to NRS 361.0687;~~

~~(b) An exemption from taxes pursuant to NRS 363B.120;~~

~~(c) A deferral of the payment of taxes on the sale of capital goods pursuant to NRS 372.397 or 374.402; or~~

~~(d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to [NRS 374.357,]~~ ~~*section 13 of this act,*~~

~~→ the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.~~

~~2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming, the Department shall report its findings to the Commission on Economic Development and take any other necessary actions.]~~ *(Deleted by amendment.)*

Sec. 15. ~~[NRS 360.750 is hereby amended to read as follows:~~

~~360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the :~~

(a) Local sales and use taxes imposed on the new or expanded business [taxes];

(b) Taxes imposed on the new or expanded business pursuant to chapter 361 [, 363B or 374] *of NRS, other than taxes imposed for public education; or*

(c) Taxes imposed pursuant to chapter 363B of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.

~~(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:~~

~~(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.~~

~~(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:~~

~~(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.~~

~~(f) If the business is an existing business, the business meets at least two of the following requirements:~~

~~(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.~~

~~(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:~~

~~(I) County assessor of the county in which the business will expand, if the business is locally assessed; or~~

~~(II) Department, if the business is centrally assessed.~~

~~(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:~~

~~(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.~~

~~(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:~~

~~(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.~~

~~(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:~~

~~(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.~~

~~3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:~~

~~(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.~~

~~(b) May, if the Commission determines that such action is necessary:~~

~~(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;~~

~~(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or~~

~~(3) Add additional requirements that a business must meet to qualify for a partial abatement.~~

~~4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.~~

~~5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:~~

~~(a) The Department;~~

~~(b) The Nevada Tax Commission;~~ [and]

~~(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer [.]~~ *; and*

~~*(d) If the abatement is related to renewable energy, including, without limitation, an abatement described in NRS 701A.220 or 701A.230, the Office of Energy within the Office of the Governor.*~~

~~6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.~~

~~7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:~~

~~(a) To meet the requirements set forth in subsection 2; or~~

~~(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,~~

~~➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.~~

~~8. A county treasurer:~~

~~(a) Shall deposit any money that he receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and~~

~~(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.~~

~~9. The Commission on Economic Development:~~

~~(a) Shall adopt regulations relating to:~~

~~(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement;~~ [and]

~~*(2) The duration and percentage of the abatements of taxes approved pursuant to NRS 701A.220, which must include, without limitation, provisions specifying that the determination of the duration and percentage of the abatement must be based in part on the anticipated beneficial economic effect to the State of the business, including, without limitation, the projected long-term job opportunities created by the business, the amount of components and equipment purchased by the business in this State, whether*~~

~~*the business causes a manufacturer of renewable energy components to locate in Nevada and whether the energy generated by the business is used in Nevada; and*~~

~~*(3)* The notice that must be provided pursuant to subsection 4.~~

~~(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.~~

~~10. The Nevada Tax Commission:~~

~~(a) Shall adopt regulations regarding:~~

~~(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and~~

~~(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.~~

~~(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.~~

~~11. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.~~

~~*12. As used in this section:*~~

~~*(a) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.*~~

~~*(b) "Taxes imposed for public education" means:*~~

~~*(1) Any ad valorem tax authorized or required by chapter 387 of NRS;*~~

~~*(2) Any ad valorem tax authorized or required by chapter 350 of NRS for obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and*~~

~~*(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]*~~ *(Deleted by amendment.)*

Sec. 16. ~~[NRS 360.755 is hereby amended to read as follows:~~

~~360.755 1. If the Commission on Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750, the agreement with the Commission must provide that the business:~~

~~(a) Agrees to allow the Department to conduct audits of the business to determine whether the business is in compliance with the requirements for the partial abatement;~~ [and]

~~(b) *Agrees to file with the Department on an annual basis, under penalty of perjury, a statement certifying that the business is in compliance with the requirements for the partial abatement; and*~~

~~*(c)* Consents to the disclosure of the audit reports in the manner set forth in this section.~~

~~2. If the Department conducts an audit of the business to determine whether the business is in compliance with the requirements for the partial abatement, the Department shall, upon request, provide the audit report to the Commission on Economic Development.~~

~~3. Until the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit, the information contained in the audit report provided to the Commission on Economic Development:~~

~~(a) Is confidential proprietary information of the business;~~

~~(b) Is not a public record; and~~

~~(c) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.~~

~~4. After the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit:~~

~~(a) The audit report provided to the Commission on Economic Development is a public record; and~~

~~(b) Upon request by any person, the Executive Director of the Commission on Economic Development shall disclose the audit report to the person who made the request, except for any information in the audit report that is protected from disclosure pursuant to subsection 5.~~

~~5. Before the Executive Director of the Commission on Economic Development discloses the audit report to the public, the business may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director shall determine whether to protect the information from disclosure. The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:~~

~~(a) Is confidential proprietary information of the business;~~

~~(b) Is not a public record;~~

~~(c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and~~

~~(d) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.~~] *(Deleted by amendment.)*

Sec. 17. ~~[NRS 361.0687 is hereby amended to read as follows:~~

~~361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.~~

~~2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:~~

~~(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:~~

~~(1) The business will make a capital investment in the county of at least $50,000,000 if the business is an industrial or manufacturing business or at least $5,000,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:~~

~~(1) The business will make a capital investment in the county of at least $5,000,000 if the business is an industrial or manufacturing business or at least $500,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~3. Except as otherwise provided in NRS 701A.210 [,]~~ *and 701A.220,* ~~if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:~~

~~(a) The partial abatement must:~~

~~(1) Be for a duration of at least 1 year but not more than 10 years;~~

~~(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and~~

~~(3) Be administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.~~

~~*4. As used in this section, "industrial or manufacturing business" does not include a facility for the generation of electricity from renewable energy.]*~~ *(Deleted by amendment.)*

Sec. 18. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

Every vehicle dealer licensed in this State shall ~~[ensure that, beginning with the 2012 model year and continuing with subsequent model years, each new vehicle he offers for sale is accompanied by a prominent disclosure]~~ , upon request, provide to any person a written statement setting forth the estimated amount of carbon dioxide that is emitted by each new vehicle that the vehicle ~~[emits,]~~ dealer offers for sale, unless the information concerning the emissions for that vehicle is unavailable.

Sec. 19. NRS 482.36414 is hereby amended to read as follows:

482.36414 A person who assumes operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, must be licensed as a dealer pursuant to the provisions of NRS 482.318 to 482.363, inclusive ~~[.]~~ *, and section 18 of this act.*

Sec. 20. ~~[Section 2.320 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 48, Statutes of Nevada 1997, at page 89, is hereby amended to read as follows:~~

~~Sec. 2.320 Sale, lease, exchange of real property owned by the City: Procedure; disposition of proceeds.~~

~~1. Subject to the provisions of this section, the City may sell, lease or exchange real property in Clark County, Nevada, acquired by the City pursuant to federal law from the United States of America.~~

~~2. Except as otherwise provided in subsection 3:~~

~~(a) The City may sell, lease or exchange real property only by resolution. Following the adoption of a resolution to sell, lease or exchange, the City Council shall cause a notice of its intention to sell, lease or exchange the real property to be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the City. The notice must be published at least 30 days before the date set by the City Council for the sale, lease or exchange, and must state:~~

~~(1) The date, time and place of the proposed sale, lease or exchange.~~

~~(2) The place where and the time within which applications and deposits may be made by prospective purchasers or lessees.~~

~~(3) Such other information as the City Council desires.~~

~~(b) Applications or offers to purchase, lease or exchange pursuant to the notice required in paragraph (a) must be in writing, must not be accepted by the City Council for consideration before the date of publication of the notice and must be accompanied by a deposit of not less than 1 percent of the total offer to purchase. If a lease, sale or exchange is not consummated because:~~

~~(1) The City refuses or is unable to consummate the lease, sale or exchange, the deposit must be refunded.~~

~~(2) The person who made the application or offer to lease, buy or exchange refuses or is unable to consummate the lease, sale or exchange, the City shall retain an amount of the deposit that does not exceed 5 percent of the total offer to purchase.~~

~~3. The City Council may waive the requirements of subsection 2 for any lease of residential property that is for a term of 1 year or less.~~

~~4. The City Council shall not make a lease for a term of 3 years or longer or enter into a contract for the sale or exchange of real property until after the property has been appraised by one disinterested appraiser employed by the City Council. Except as otherwise provided in subsections 7 and 8, it must be the policy of the City Council to require that all such sales, leases or exchanges be made at or above the current appraised value as determined by the appraiser unless the City Council, in a public hearing held before the adoption of the resolution to sell, lease or exchange the property, determines by affirmative vote of not fewer than two thirds of the entire City Council based upon specified findings of fact that a lesser value would be in the best interest of the public. For the purposes of this subsection, an appraisal is not considered current if it is more than 3 years old.~~

~~5. It must be the policy of the City Council to sell, lease and exchange real property in a manner that will result in the maximum benefit accruing to the City from the sales, leases and exchanges. The City Council may attach any condition to the sale, lease or exchange as appears to the City Council to be in the best interests of the City.~~

~~6. The City Council may sell unimproved real property owned by the City on a time payment basis. The down payment must be in an amount determined by the City Council, and the interest rate must be in an amount determined by the City Council, but must not be less than 6 percent per annum on the declining balance.~~

~~7. Notwithstanding the provisions of subsection 4, the City Council may dispose of any real property belonging to the City to the United States of America, the State of Nevada, Clark County, any other political subdivision of the State, or any quasi-public or nonprofit entity for a nominal consideration whenever the public interest requires such a disposition. In any such case, the consideration paid must equal the cost of the acquisition to the City.~~

~~8. The City Council may sell, lease or exchange real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the City which is eligible *for an abatement from local sales and use taxes* pursuant to [NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.] *section 13 of this act. As used in this subsection, "local sales and use taxes" has the meaning ascribed to it in NRS 360.750.*~~

~~9. Proceeds from all sales and exchanges of real property owned by the City, after deduction of the cost of the real property, reasonable costs of publication, title insurance, escrow and normal costs of sale, must be placed in the Land Fund previously created by the City in the City Treasury and hereby continued. Except as otherwise provided in subsection 10, money in the Land Fund may be expended only for:~~

~~(a) Acquisition of assets of a long term character which are intended to continue to be held or used, such as land, buildings, machinery, furniture, computer software and other equipment.~~

~~(b) Capital improvements of improvements thereon.~~

~~(c) Expenses incurred in the preparation of a long term comprehensive master planning study and any expenses incurred in the master planning of the City.~~

~~(d) All costs, including salaries, for administration of the Land Fund, and the land within the City.~~

~~(e) Expenses incurred in making major improvements and repairs to the water, sewer and street systems as differentiated from normal maintenance costs.~~

~~". Money received from leases of real property owned by the City must be placed in the Land Fund if the term of lease is 20 years or longer, whether the 20 years is for an initial term of lease or for an initial term and an option for renewal. Money received by the City from all other leases and interest on time payment sales of real property owned by the City must be apportioned in the ratio of 20 percent to current operational expenses of the City, 20 percent to the Land Fund, and 60 percent divided between the Land Fund and current operational expenses as determined by the Council.~~

~~10. If available, money in the Land Fund may be borrowed by the City pursuant to the provisions of NRS 354.430 to 354.460, inclusive.]~~ *(Deleted by amendment.)*

Sec. 21. ~~[Section 17 of chapter 539, Statutes of Nevada 2007, at page 3389, is hereby amended to read as follows:~~

~~Sec. 17. 1. This section and sections 1, 4 to 8, inclusive, and 10 to 16, inclusive, of this act become effective upon passage and approval.~~

~~2. Sections 2 and 3 of this act become effective:~~

~~(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~(b) On July 1, 2007, for all other purposes.~~

~~3. Sections [5, 7,] 8 and 11 of this act expire by limitation on June 30, 2009.~~

~~4. Section 9 of this act becomes effective on July 1, 2009.]~~ *(Deleted by amendment.)*

Sec. 22. ~~[NRS 374.357 is hereby repealed.]~~ *(Deleted by amendment.)*

Sec. 22.5. ~~[1. There is hereby appropriated from the State General Fund the sum of $25,000 to the Interim Finance Committee for allocation during the Fiscal Year 2009-2010 to the Office of Energy to cover the costs of adopting the regulations required pursuant to chapter 701 of NRS. Money appropriated pursuant to this section may only be allocated by the Interim Finance Committee upon demonstrated need by the Office of Energy and approved by the State Board of Examiners.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be allocated by the Interim Finance Committee after June 30, 2010, and must be reverted to the State General Fund on or before September 17, 2010. Any remaining balance of the money allocated to the Office of Energy pursuant to subsection 1 must not be committed for expenditure after June 30, 2010, must not be spent for any purpose after September 17, 2010, and must be reverted to the State General Fund on or before September 17, 2010.]~~ *(Deleted by amendment.)*

Sec. 23. ~~[The provisions of sections 1, 2, 7, 13 to 17, inclusive, 20 and 22 of this act do not apply to or affect the terms of any abatement of taxes approved by the Commission on Economic Development before July 1, 2009.]~~ *(Deleted by amendment.)*

Sec. 24. As soon as practicable after July 1, 2009, the Governor shall appoint to the Commission on Economic Development any new members required to be appointed to the Commission pursuant to NRS 231.040, as amended by section 6 of this act.

Sec. 25. 1. This section and ~~[section 21 of this act become effective upon passage and approval.~~

~~2. Sections 1 to 20, inclusive, and 22]~~ *sections 1 to 17, inclusive, and 20* to 24, inclusive, of this act become effective on July 1, 2009.

2. Sections 18 and 19 of this act become effective on January 1, 2010.

~~TEXT OF REPEALED SECTION]~~

~~374.357 Abatement for eligible machinery or equipment used by certain new or expanded businesses. [Effective July 1, 2009.]~~

~~1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.~~

~~2. If an application for an abatement is approved pursuant to NRS 360.750:~~

~~(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years.~~

~~(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.~~

~~3. As used in this section, unless the context otherwise requires, "eligible machinery or equipment" means machinery or equipment for which a~~

~~deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:~~

~~(a) Buildings or the structural components of buildings;~~

~~(b) Equipment used by a public utility;~~

~~(c) Equipment used for medical treatment;~~

~~(d) Machinery or equipment used in mining; or~~

~~(e) Machinery or equipment used in gaming.]~~

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

The amendment exempts electric-generating plants that have a nameplate capacity of not more than 70 megawatts from the definition of a "utility facility." The bill requires the Governor to appoint two members of the Commission on Economic Development who are residents of counties whose populations are less than 100,000. The bill also requires the Chief of the Purchasing Division of the Department of Administration to adopt regulations establishing energy-efficiency standards for new appliances and other energy-consuming devices. These standards must be used by state agencies when purchasing such items. In addition, the State Public Works Board must adopt regulations that establish standards for water and energy efficiency for the use and design and construction of buildings. Senate Bill No. 395 requires a licensed vehicle dealer to, upon request, provide certain information regarding carbon dioxide emissions of each new vehicle the dealer offers for sale unless that information is unavailable. Provisions of the bill relating to carbon dioxide emissions are effective January 1, 2010. All other provisions of the bill are effective July 1, 2009.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 423.

Bill read third time.

Roll call on Senate Bill No. 423:

YEAS—21.

NAYS—None.

Senate Bill No. 423 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 424.

Bill read third time.

Roll call on Senate Bill No. 424:

YEAS—21.

NAYS—None.

Senate Bill No. 424 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 425.

Bill read third time.

Roll call on Senate Bill No. 425:
YEAS—20.
NAYS—Care.

Senate Bill No. 425 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senator Horsford moved that the Senate recess until 7:30 p.m.
Motion carried.

Senate in recess at 6:03 p.m.

SENATE IN SESSION

At 9:24 p.m.
President Krolicki presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 162, 202, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Health and Education, to which were referred Assembly Bills Nos. 102, 181, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 18, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 64, 92, 146, 254, 531, 543, 546, 547, 552, 557.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved to consider General File next on the agenda.
Remarks by Senator Care.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 234.
Bill read third time.
Roll call on Senate Bill No. 234:
YEAS—20.
NAYS—None.
ABSENT—Amodei.

Senate Bill No. 234 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 415.

Bill read third time.

Roll call on Senate Bill No. 415:

YEAS—20.

NAYS—None.

ABSENT—Amodei.

Senate Bill No. 415 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 64.

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

Motion carried.

Assembly Bill No. 92.

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

Motion carried.

Assembly Bill No. 146.

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

Motion carried.

Assembly Bill No. 254.

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

Motion carried.

Assembly Bill No. 531.

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

Motion carried.

Assembly Bill No. 543.

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

Motion carried.

Assembly Bill No. 546.

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

Motion carried.

Assembly Bill No. 547.

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

Motion carried.

Assembly Bill No. 552.

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

Motion carried.

Assembly Bill No. 557.

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

Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 170.

The following Assembly amendment was read:

Amendment No. 657.

"SUMMARY—Revises provisions governing payment for work performed for the operation and maintenance of ditches. (BDR 48-1059)"

"AN ACT relating to conduits; authorizing an entity that owns, operates or maintains a ditch to recover from certain persons the reasonable expense of any work performed by the entity that is necessary for the operation and maintenance of the ditch; providing for the imposition of a lien against any property to which water is delivered through the ditch; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes an entity that owns, operates or maintains a ditch to perform any work necessary for the maintenance and operation of the ditch and to recover the reasonable expense of that work from each person who *, in accordance with a contract or a decreed, certified or permitted right to appropriate water,* receives water through the ditch. *If the work consists of a capital improvement that alters the fundamental character of the ditch, section 1 requires the entity to provide notice of the work at least 30 days before incurring any expenses for the work.* Section 1 *also* specifies that any ~~[such]~~ work *performed for the maintenance and operation of the ditch* includes, without limitation, labor and any accounting, legal or other administrative service performed for ~~[the]~~ *that* maintenance and operation *.* ~~[of the ditch.]~~ Section 2 of this bill provides for the imposition of a lien against any property to which water is delivered through the ditch if a person who receives water through the ditch fails to pay his proportionate share of the expense of maintenance or operation. Section 3 of this bill provides that each person or entity constructing, operating or maintaining a ditch or flume has a right to the full flow of water through the ditch or flume, regardless of whether the water is for use by the person or entity or for delivery to others.

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

Section 1. NRS 536.040 is hereby amended to read as follows:

536.040 *1.* In all cases where ~~[ditches are]~~ *a ditch is* owned by two or more persons, and one or more of ~~[such]~~ *those* persons ~~[shall fail]~~ *fails* or ~~[neglect]~~ *neglects* to do a proportionate share of the work necessary for the

~~[proper]~~ maintenance and operation of ~~[such]~~ *the* ditch , ~~[or ditches,]~~ or to construct suitable headgates or other devices at the point where water is diverted from the main ditch, ~~[such]~~ *the* owner or owners desiring the performance of ~~[such]~~ *the* work may, after giving 10 days' written notice to ~~[such]~~ *the* other owner or owners who have failed to perform ~~[such]~~ *the* proportionate share of the work necessary for the operation and maintenance of ~~[such]~~ *the* ditch , ~~[or ditches,]~~ perform ~~[such]~~ *the* share of the work, and recover therefor from ~~[such]~~ *each* person ~~[or persons]~~ in default the reasonable expense of ~~[such]~~ *the* work. *In all cases where a ditch is owned, operated or maintained by an entity, the entity may perform any work necessary for the maintenance and operation of the ditch and recover ~~[therefor]~~ from each person ~~[receiving]~~ who, in accordance with a contract or a decreed, certified or permitted right to appropriate water, receives water through the ditch his proportionate share of the reasonable expense of the work. Except during an emergency, the entity shall notify each of those persons at least 30 days before incurring any expenses to perform a capital improvement that alters the fundamental character of the ditch. If the entity is a supplier of water, any expenses incurred by the supplier of water for any work performed on an irrigation ditch pursuant to this section must be billed as part of the customer rates of the supplier of water for the delivery of water service through the ditch.*

2. As used in this section ~~[, "work"]~~ :

(a) "Supplier of water" has the meaning ascribed to it in NRS 445A.845.

(b) "Work" includes, without limitation, labor and any accounting, legal or other administrative service performed for the maintenance and operation of a ditch specified in subsection 1.

Sec. 2. NRS 536.050 is hereby amended to read as follows:

536.050 Upon the failure of any co-owner *or person ~~[receiving]~~ who receives water through a ditch from an entity specified in NRS 536.040* to pay his proportionate share of such expense, as ~~[mentioned]~~ *specified* in ~~[NRS 536.040,]~~ *that section,* within 30 days after receiving a statement of the same as performed by his co-owner or co-owners ~~[, such]~~ *or by the entity owning, operating or maintaining the ditch, each* person or ~~[persons]~~ *entity* so performing ~~[such]~~ *the* labor *or other work* may secure payment of ~~[such]~~ *the* claim by filing an itemized and sworn statement thereof, setting forth the date of the performance and the nature of the labor *or other work* so performed, with the county clerk of the county wherein the ditch is situated, and when so filed it ~~[shall constitute]~~ *constitutes* a valid lien against the interest of ~~[such]~~ *each* person ~~[or persons]~~ in default ~~[, which]~~ *and against any property to which water is delivered through the ditch. The* lien may be established and enforced in the same manner as provided by law for the enforcement of mechanics' liens.

Sec. 3. NRS 536.080 is hereby amended to read as follows:

536.080 ~~[The]~~ *Each* person or ~~[persons]~~ *entity* constructing , *operating* or maintaining a ditch or flume under the provisions of NRS 536.060 to

536.090, inclusive, ~~[shall have]~~ *has* the undisturbed right and privilege of flowing water through the same, to the full extent of its capacity, for mining, milling, manufacturing, agricultural and other domestic purposes, *whether for use by the person or entity or for delivery to others,* and to use the same at any necessary and convenient point or points along the line thereof , ~~[;]~~ but nothing contained in NRS 536.060 to 536.090, inclusive, shall be so construed as to interfere with any prior or existing claim or right.

Sec. 4. This act becomes effective on July 1, 2009.

Senator Parks moved that the Senate concur in the Assembly amendment to Senate Bill No. 170.

Remarks by Senator Parks.

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

Thank you, Mr. President. The changes that were made were considered to be a significant improvement to the bill and would permit the right of appropriate water recovery through ditches as well as creating a capital improvement program that would substantially improve the collection of funds.

Motion carried by a constitutional majority.

Bill ordered enrolled.

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

Motion carried.

Senate in recess at 9:33 p.m.

SENATE IN SESSION

At 9:34 p.m.

President Krolicki presiding.

Quorum present.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 201, 207, 256; Assembly Bills Nos. 76, 79, 121, 139, 236, 389, 410, 415, 486, 510; Assembly Concurrent Resolution No. 19.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Lee, the privilege of the floor of the Senate Chamber for this day was extended to Lacy Lee and Alana Lee.

On request of Senator Nolan, the privilege of the floor of the Senate Chamber for this day was extended to Joe Nolan.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to Cherie Garrison, Marsha Conway, Mary Fechner and Steve Fechner.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to the following students and chaperones from the Nate Mack Elementary School: Donoven Cardinelli, Victoria

Fontanelli-Burgos, Desire Gallegos, Madison Gorton, Peyton Halbakken-Wohlman, Lillian Lederer, William Daniel Ledesma, Gabriella Martinez, Brianna Miller, John Miller, Madison Nelson, Michael Parlak, Alexander Rosa, Samantha Schiers, David Trotta, Vanessa Villalobos, Eunice Yi, Emma Letourneau, Gabriella Costa, Sophia Costa, Joey Kneale, Daniel Kneale, Kavantae Simons Kyla Creps, Ria Galang, Tiah Bailey, Emily Flowers, Shannon Stratman, Maya Garcia, Brooke Haney, Autumn Beltran, Ann Gilbert, Evan Bell, Trent McCord, Perseea Ghafouria, Olivia Denue, Erika Spiker, Farrah Hayden, Tyler Brunty, Chris Gjersing, Jordan Walker, Jordan Burns, Carlee Snell, Skyler Willis, Patrica Keene, Taylor Scruggs, Matthew Candelaria, Joseph Cupp, Thai Laury, Irie Douville, Sofia Aldaco, Mya Lofton, Travis Crawford, Nicholas Glazier, Roman Soto, Logan Whitney; chaperones: Maisabel Burgos Fontanelli, Michele Gorton, Brenda Halbakken-Wohlman, Edgar Martinez, Allison Bredlau, Barbara Kneale, Barbara Creps, Olga Guerrero, Maryellen Stratman, Yolanda Garcia, Lora Haney, Betty Beltran, Vicky Smith, Virginia Ghafouria, Laura Denue, Timothy Brunty, Melissa Snell, John Candelaria, Rosemary Douville, Laurie Keene, Rakisha Langaricia, Steven Crawford, Janette Rozgay-Miller, Nancy Hutchins and Nancy Heavey.

Senator Horsford moved that the Senate adjourn until Tuesday, May 19, 2009, at 10 a.m.

Motion carried.

Senate adjourned at 9:35 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate