THE ONE HUNDRED AND SEVENTH DAY

CARSON CITY (Tuesday), May 19, 2009

Senate called to order at 12:09 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Patrick Propster.

Today's Reading: Matthew 6:31-34

"Then do not be anxious, saying, what may we eat?

For after all these things the nations seek. For Your heavenly Father knows that You have need of all these things.

But seek first the kingdom of God and His righteousness, and all these things will be added to You.

Then do not be anxious for tomorrow. For the morrow will be anxious of itself. For the morrow will be anxious of itself. Sufficient to each day is its own trouble."

Lord, God, we seek the peace of You today, that it may guard our hearts and minds in all righteousness.

We pray that the time we have here will be used to glorify You and serve those You have entrusted to us.

We pray this is Thy Holy Name, Christ 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 were referred Assembly Bills Nos. 90, 144, 266, 287, 381, 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 Finance, to which was referred Assembly Bill No. 401, 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. 188, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

BERNICE MATHEWS, *Cochair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 146, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Finance.

TERRY CARE, *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 Senate Bills Nos. 6, 9, 62, 72, 127, 151, 185, 193, 219, 229, 238, 244, 247, 254, 287, 288, 298, 302, 319, 325.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 65, 148, 497, 523.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 194, Amendments Nos. 590, 747; Senate Bill No. 231, Amendment No. 676; Senate Bill No. 251, Amendment No. 744; Senate Bill No. 278, Amendment No. 677; Senate Bill No. 317, Amendment No. 605, and respectfully requests your honorable body to concur in said amendments.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bill No. 146 be rereferred to the Committee on Finance.

Remarks by Senator Care.

Motion carried.

Senator Care moved that Assembly Bill No. 102 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Care moved that Assembly Bills Nos. 262, 309, 313, 474 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Care moved that Senate Joint Resolution No. 10 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Care.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 427—AN ACT relating to the Public Employees' Retirement System; making various changes relating to the System; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 428—AN ACT relating to state financial administration; revising provisions governing the payments of administrative costs of the Millennium Scholarship Trust Fund; revising the use of money collected

from the enforcement of provisions relating to securities; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 65.

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

Motion carried.

Assembly Bill No. 148.

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

Motion carried.

Assembly Bill No. 497.

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

Motion carried.

Assembly Bill No. 523.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 311.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 852.

"SUMMARY—Requires the fluoridation of water provided by certain public water systems and water authorities in certain counties. (BDR 40-924)"

"AN ACT relating to water; requiring the State Board of Health to adopt regulations requiring the fluoridation of water provided by certain public water systems and water authorities in certain counties; providing exceptions; *requiring an advisory question to be placed on the general election ballot in certain counties;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations requiring the fluoridation of all water delivered for human consumption in a county whose population is 400,000 or more (currently Clark County) by a public water system that serves a population of 100,000 or more or by a water authority. (NRS 445A.055) Section 2 of this bill requires the Board to revise those regulations to make them applicable in any county whose population is 100,000 or more (currently Clark and Washoe Counties).

Section 2 also requires the Board, under certain circumstances, to make a temporary exception to the minimum permissible concentration of fluoride to be maintained in a public water system or water authority in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County). ~~[Section 3 of this bill, which becomes effective on October 1, 2013, removes certain exceptions to the requirement that all water delivered for human consumption in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) by a public water system that serves a population of 100,000 or more or by a water authority be fluoridated.]~~ *Section 4 of this bill requires the placement of an advisory question concerning the fluoridation of water on the ballot for the general election in November 2010 in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County).*

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

Section 1. NRS 445A.050 is hereby amended to read as follows:

445A.050 The provisions of NRS 445A.025 to 445A.050, inclusive, do not apply to:

1. A public water system that serves a population of 100,000 or more in a county whose population is ~~[400,000]~~ *100,000* or more.

2. A water authority, as defined ~~[pursuant to]~~ *in* NRS 377B.040, and any political subdivision that receives all or a part of its water supply from such a water authority in a county whose population is ~~[400,000]~~ *100,000* or more.

3. Purveyors of bottled water ~~[who]~~ *that* label their containers to inform the purchaser that the naturally occurring fluoride concentration of the water has been adjusted to recommended levels.

4. A supplier of water ~~[who]~~ *that* supplies water to less than 500 users.

Sec. 2. NRS 445A.055 is hereby amended to read as follows:

445A.055 1. The State Board of Health shall adopt regulations requiring the fluoridation of all water delivered *to retail or wholesale customers that may be used* for human consumption in a county whose population is ~~[400,000]~~ *100,000* or more by a:

(a) Public water system that serves a population of 100,000 or more; or

(b) Water authority.

2. The regulations must include, without limitation:

(a) The minimum and maximum permissible concentrations of fluoride to be maintained by such a public water system or a water authority, except that:

(1) The minimum permissible concentration of fluoride must not be less than 0.7 parts per million; and

(2) The maximum permissible concentration of fluoride must not exceed 1.2 parts per million;

(b) The requirements and procedures for maintaining proper concentrations of fluoride, including any necessary equipment, testing, recordkeeping and reporting;

(c) Requirements for the addition of fluoride to the water if the natural concentration of ~~[fluorides]~~ *fluoride* is lower than the minimum permissible concentration established pursuant to paragraph (a); and

(d) Criteria pursuant to which the State Board of Health may exempt a public water system or water authority from the requirement of fluoridation upon the request of the public water system or water authority.

3. The State Board of Health shall not require the fluoridation of:

(a) The wells of a public water system or water authority if:

(1) The groundwater production of the public water system or water authority is less than 15 percent of the total average annual water production of the system or authority for the years in which drought conditions are not prevalent; and

(2) The wells are part of a combined regional and local system for the distribution of water that is served by a fluoridated source.

(b) A public water system or water authority:

(1) During an emergency or period of routine maintenance, if the wells of the system or authority are exempt from fluoridation pursuant to paragraph (a) and the supplier of water determines that it is necessary to change the production of the system or authority from surface water to groundwater because of an emergency or for purposes of routine maintenance; or

(2) If the natural water supply of the system or authority contains fluoride in a concentration that is at least equal to the minimum permissible concentration established pursuant to paragraph (a) of subsection 2.

4. The State Board of Health may make an exception to the minimum permissible concentration of fluoride to be maintained in a public water system or water authority based on:

(a) The climate of the regulated area;

(b) The amount of processed water purchased by the residents of the regulated area; and

(c) Any other factor that influences the amount of public water that is consumed by the residents of the regulated area.

5. *The State Board of Health shall make an exception to the minimum permissible concentration of fluoride to be maintained in a public water system or water authority in a county whose population is 100,000 or more but less than 400,000, pursuant to a request submitted by a public water authority or water system because the demand for water by residents of the regulated area requires it to change the production of the system or authority temporarily to include unfluoridated groundwater. An exception made pursuant to this section must not exceed the period from May 1 to October 31 of the year for which the exception is requested.*

6. The Health Division of the Department of Health and Human Services shall make reasonable efforts to secure any available sources of financial support, including, without limitation, grants from the Federal Government,

for the enforcement of the standards established pursuant to this section and any related capital improvements.

~~[6.]~~ *7.* A public water system or water authority may submit to the Health Division a claim for payment of the initial costs of the public water system or water authority to begin complying with the provisions of this section regardless of whether the public water system or water authority is required to comply with those provisions. The Administrator of the Health Division may approve such claims to the extent of legislative appropriations and any other money available for that purpose. Approved claims must be paid as other claims against the State are paid. The ongoing operational expenses of a public water system or water authority in complying with the provisions of this section are not compensable pursuant to this subsection.

~~[7.]~~ *8.* As used in this section:

(a) "Supplier of water" has the meaning ascribed to it in NRS 445A.845.

(b) "Water authority" has the meaning ascribed to it in NRS 377B.040.

Sec. 3. ~~[NRS 445A.055 is hereby amended to read as follows:~~

~~445A.055 1. The State Board of Health shall adopt regulations requiring the fluoridation of all water delivered for human consumption in a county whose population is 100,000 or more by a:~~

~~(a) Public water system that serves a population of 100,000 or more; or~~

~~(b) Water authority.~~

~~2. The regulations must include, without limitation:~~

~~(a) The minimum and maximum permissible concentrations of fluoride to be maintained by such a public water system or a water authority, except that:~~

~~(1) The minimum permissible concentration of fluoride must not be less than 0.7 parts per million; and~~

~~(2) The maximum permissible concentration of fluoride must not exceed 1.2 parts per million;~~

~~(b) The requirements and procedures for maintaining proper concentrations of fluoride, including any necessary equipment, testing, recordkeeping and reporting;~~

~~(c) Requirements for the addition of fluoride to the water if the natural concentration of fluoride is lower than the minimum permissible concentration established pursuant to paragraph (a); and~~

~~(d) Criteria pursuant to which the State Board of Health may exempt a public water system or water authority from the requirement of fluoridation upon the request of the public water system or water authority.~~

~~3. [The] *In a county whose population is 400,000 or more, the* State Board of Health shall not require the fluoridation of:~~

~~(a) The wells of a public water system or water authority if:~~

~~(1) The groundwater production of the public water system or water authority is less than 15 percent of the total average annual water production of the system or authority for the years in which drought conditions are not prevalent; and~~

~~(2) The wells are part of a combined regional and local system for the distribution of water that is served by a fluoridated source.~~

~~(b) A public water system or water authority:~~

~~(1) During an emergency or period of routine maintenance, if the wells of the system or authority are exempt from fluoridation pursuant to paragraph (a) and the supplier of water determines that it is necessary to change the production of the system or authority from surface water to groundwater because of an emergency or for purposes of routine maintenance; or~~

~~(2) If the natural water supply of the system or authority contains fluoride in a concentration that is at least equal to the minimum permissible concentration established pursuant to paragraph (a) of subsection 2.~~

~~4. *In a county whose population is 100,000 or more but less than 400,000, the State Board of Health shall not require the fluoridation of a public water system or water authority:*~~

~~*(a) During an emergency; or*~~

~~*(b) If the natural water supply of the system or authority contains fluoride in a concentration that is at least equal to the minimum permissible concentration established pursuant to paragraph (a) of subsection 2.*~~

~~*5.* The State Board of Health may make an exception to the minimum permissible concentration of fluoride to be maintained in a public water system or water authority based on:~~

~~(a) The climate of the regulated area;~~

~~(b) The amount of processed water purchased by the residents of the regulated area; and~~

~~(c) Any other factor that influences the amount of public water that is consumed by the residents of the regulated area.~~

~~[5.]~~ ~~*6.* The State Board of Health shall make an exception to the minimum permissible concentration of fluoride to be maintained in a public water system or water authority in a county whose population is 100,000 or more but less than 400,000, pursuant to a request submitted by a public water authority or water system because the demand for water by residents of the regulated area requires it to change the production of the system or authority temporarily to include unfluoridated groundwater. An exception made pursuant to this section must not exceed the period from May 1 to October 31 of the year for which the exception is requested.~~

~~[6.]~~ ~~*7.* The Health Division of the Department of Health and Human Services shall make reasonable efforts to secure any available sources of financial support, including, without limitation, grants from the Federal Government, for the enforcement of the standards established pursuant to this section and any related capital improvements.~~

~~[7.]~~ ~~*8.* A public water system or water authority may submit to the Health Division a claim for payment of the initial costs of the public water system or water authority to begin complying with the provisions of this section regardless of whether the public water system or water authority is required~~

~~to comply with those provisions. The Administrator of the Health Division may approve such claims to the extent of legislative appropriations and any other money available for that purpose. Approved claims must be paid as other claims against the State are paid. The ongoing operational expenses of a public water system or water authority in complying with the provisions of this section are not compensable pursuant to this subsection.~~

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

~~(a) "Supplier of water" has the meaning ascribed to it in NRS 445A.845.~~

~~(b) "Water authority" has the meaning ascribed to it in NRS 377B.040.]~~ *(Deleted by amendment.)*

Sec. 4. *At the general election on November 2, 2010, in each county whose population is 100,000 or more but less than 400,000, an advisory question must be placed on the general election ballot in substantially the following form:*

Should the water authority and each public water system in this county that serve a population of 100,000 persons or more cease the fluoridation of the water?

~~[Sec. 4.]~~ *Sec. 5.* 1. This section and sections 1 and 2 of this act become effective upon passage and approval for the purpose of adopting regulations and on ~~[October 1, 2011,]~~ *July 1, 2010,* for all other purposes.

2. ~~[Section 2 of this act expires by limitation on September 30, 2013.]~~ *Section 4 of this act becomes effective on October 1, 2009.*

3. Section 3 of this act becomes effective on October 1, 2013.

Senator Mathews moved the adoption of the amendment.

Remarks by Senators Mathews, Raggio, Townsend and Washington.

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

SENATOR MATHEWS:

This bill has to do with fluoridation of water in certain counties of 100,000 persons or more. An important component of this bill is that the measure returns to the public for a vote the next Legislative Session.

SENATOR RAGGIO:

This is an advisory vote of the people of Washoe County that will only occur after the implementation of fluoridation to the water system. The voters in Washoe County have previously voted against it. My concern is that this is not an advisory vote that will occur before implementation of the fluoridation but after implementation has occurred. I oppose the amendment.

SENATOR MATHEWS:

That is correct. This is the same as we did for Clark County. This is the exact same bill, and it was voted for in this Chamber.

SENATOR TOWNSEND:

If the case that has been presented to us whereby the Clark County citizens voted after the fact, how did the people vote?

SENATOR MATHEWS:

The question was should the water authority and each public water system in this county, that serves a population of 100,000 persons or more, cease the fluoridation of water? The answer was, 42.83 percent voted "yes" and 57.17 percent voted "no."

SENATOR WASHINGTON:

Can the Truckee Meadows Water Authority (TMWA) comply with this bill if this amendment is adopted? What is the cost to TMWA if they put the fluoridation in the water and then the people vote to remove it?

SENATOR MATHEWS:

The costs will stop if the vote is to repeal the fluoridation. What ever is left will be destroyed.

SENATOR WASHINGTON:

I understand this is an advisory question after fluoridation has taken place. Is there a cost to the ratepayer for the fluoridation of the water? If the voters decide to repeal this, there is still a cost. Would there be a rate increase?

SENATOR MATHEWS:

There will be an expense. It is $.50 per month per ratepayer. That will be removed from the bill if the advisory measure fails. They will pay for the fluoridation they use.

SENATOR WASHINGTON:

Do you have assurance that the rate will be reduced if the advisory measure fails?

SENATOR MATHEWS:

You never have assurance. I will try to be certain that they do.

SENATOR WASHINGTON:

Without that assurance, I will vote "no" on the amendment.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 13.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 803.

"SUMMARY—Revises provisions governing expenditures by school districts for textbooks, instructional supplies and instructional hardware. (BDR 34-295)"

"AN ACT relating to education; authorizing the board of trustees of a school district to request a waiver from the required minimum expenditure for textbooks, instructional supplies and instructional hardware during an economic hardship; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Department of Education to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) Section 1 of this bill authorizes a school district to request a waiver from all or a portion of the minimum expenditure requirements when a school district experiences an economic

hardship. A request for a waiver must be reviewed by the Department of Education and the State Board of Examiners. The Interim Finance Committee makes the final determination regarding whether to grant a waiver. A school district that is granted a waiver is prohibited from using the money for collective bargaining with its licensed employees or for an adjustment of salaries and benefits of district employees.

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

Section 1. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district that experiences an economic hardship may submit a written request to the Department on a form prescribed by the Department for a waiver of all or a portion of the amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware pursuant to NRS 387.206 for the fiscal year.

2. Upon receipt of a written request pursuant to subsection 1, the Department shall consider the request and determine whether an economic hardship exists for the school district. The Department may request additional information from the school district in making the determination. If the Department determines that an economic hardship exists for the school district, the Department shall forward the request to the Interim Finance Committee and the State Board of Examiners, including the basis for its determination and any recommendations of the Department for the amount of a waiver.

3. Upon receipt of a written request from the Department pursuant to subsection 2, the State Board of Examiners shall consider the request and determine whether an economic hardship exists for the school district. If the State Board of Examiners determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The State Board of Examiners may request additional information from the school district in making the determination. If the State Board of Examiners determines that an economic hardship exists for the school district and that a waiver from all or a portion of the expenditure requirements is justified, the State Board of Examiners shall forward the request to the Interim Finance Committee, including the basis for its determination and its recommendation for the amount of the waiver. The Interim Finance Committee is not bound to follow the recommendations of the State Board of Examiners.

4. Upon receipt of a written request from the State Board of Examiners pursuant to subsection 3, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district. If the Interim Finance Committee determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of

all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The Interim Finance Committee may request additional information from the school district in making the determination. If the Interim Finance Committee grants a waiver, the Committee shall by resolution set forth the:

(a) Grounds for its determination;

(b) Amount of the waiver; and

(c) Period for which the waiver is effective.

5. The board of trustees of a school district that is granted a waiver by the Interim Finance Committee pursuant to this section shall, upon expiration of the period for which the waiver is granted, provide a written accounting to the Interim Finance Committee and the Department that includes a:

(a) Reconciliation of the revenue and expenditures with the projections of revenue and expenditures that were used to determine whether an economic hardship existed for the school district; and

(b) Description of how the money from the waiver was used.

6. If the Interim Finance Committee grants a waiver pursuant to this section and subsequently the economic hardship to the school district is mitigated because the actual revenue attributable to the school district exceeds projections or the actual expenses incurred by the school district are less than anticipated:

(a) The amount of the waiver must be reduced accordingly by the school district; and

(b) The amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware in the next fiscal year, as determined pursuant to subsection 1 of NRS 387.206, must be adjusted accordingly.

7. ~~[A]~~ If a school district ~~[that]~~ is granted a waiver pursuant to this section , ~~[shall not use]~~ the money that would have otherwise been expended by the school district to meet the requirements of NRS 387.206 for the fiscal year : ~~[to:]~~

(a) ~~[Settle]~~ May not be considered as financial ability to pay for the purposes of negotiation or arbitration regarding salaries and benefits.

(b) Must not be used to settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district and the school district.

~~[(b) Adjust]~~

(c) Must not be used to adjust the schedules of salaries and benefits of the employees of the school district.

8. For purposes of this section, an economic hardship exists for a school district if:

(a) Projections of revenue do not meet or exceed the revenue anticipated at the time the basic support guarantees are established for the fiscal year pursuant to NRS 387.122; or

(b) The school district incurs unforeseen expenses, including, without limitation, expenses related to a natural disaster.

Sec. 2. NRS 387.206 is hereby amended to read as follows:

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

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for that fiscal year. *If a school district is granted a waiver pursuant to section 1 of this act, the Department shall provide written notice to the school district within 30 days after the Interim Finance Committee grants the waiver setting forth the revised amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for the fiscal year.*

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

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

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

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

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial

budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

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

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford, Amodei, Raggio, Carlton and Cegavske.

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

SENATOR HORSFORD:

The amendment authorizes school districts to request a waiver from all or a portion of the minimum-expenditure requirements for textbooks, instructional supplies and instructional hardware in the event of an economic hardship.

SENATOR AMODEI:

Was there any discussion about waivers and economic hardships regarding wages? This amendment states, "If there is economic hardship, the district would apply and not spend monies appropriated previously for these purposes in an economic hardship." Since pay and benefits provide a large part of the expense to run a school district, if a similar provision were discussed regarding an economic hardship, could there be a waiver of previously negotiated pay and benefit issues when the school district is experiencing a hardship?

SENATOR HORSFORD:

For the purposes of this bill, an economic hardship exists for a school district if revenue projections do not meet or exceed the revenues anticipated by the Legislature or if the district incurs unforeseen expenses including those related to a natural disaster.

SENATOR RAGGIO:

This amendment addresses the concerns that if the districts are granted this waiver, the funds would then become available for these emergency purposes and would be used only for those purposes and not be money that could be used for arbitration and negotiation. That was the purpose of this amendment.

SENATOR CARLTON:

I would like to be assured that a shell game is not played with this money. Sometimes money can be used to supplant. If they are given a waiver to not comply with certain provisions and that money goes to take care of other problems the school district is addressing, I would expect the school district not to shift that money from one account to another and not to move the money two or three times. We all know it is "follow the money" in order to give a raise or to do something for benefits. I want to make it clear that is the reason why I will be supporting the bill. I know the money will not go to wages and benefits.

SENATOR RAGGIO:

The examples given on why they would need to do this in an emergency were primarily for transportation costs and other similar needs. The committee, when proposing this amendment, wanted to make certain that if the money was redirected it would be used for those purposes and not be freed up to be used otherwise. That should address your concerns.

SENATOR CEGAVSKE:

Thank you, Mr. President. I am not able to find something in this that would tell me that once the money has been granted by the Department of Education, there would be accountability with the Interim Finance Committee (IFC). The committee would require them to explain exactly how the funds were spent. What section is that information in?

SENATOR HORSFORD:

The Department of Education must first review the waiver request to determine whether there is an economic hardship. If so, the waiver would be brought simultaneously to the State Board of

Examiners and IFC for review. IFC will make the final determination regarding whether to approve or deny a waiver request. The language the Senator refers to appears on page 4, lines 32-37, of the amendment.

Senator Horsford moved that Assembly Bill No. 13 be taken from the Second Reading File and placed on the Second Reading File on the second agenda.

Motion carried.

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 and Cegavske.

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

SENATOR PARKS:

Thank you, Mr. President. This amendment removes language that was inadvertently left in the bill when it was passed out of the Assembly. This is a public education bill as it was found that many pet owners were unaware of the local ordinances. Nothing in the bill deals with either anesthesia or rounding up of feral cats.

SENATOR CEGAVSKE:

Thank you, Mr. President. I think what I was requesting in this bill was to see if we could have a waiver for those owners who have dogs that are known to have seizures when put under anesthesia. This is not addressed in this amendment, correct.

SENATOR PARKS:

Thank you, Mr. President. You are correct there is nothing in the amendment that deals with that subject matter. I am not even certain whether it would be pertinent to the bill.

What this bill does is provide pet owners with knowledge of the local ordinances. As we know, local ordinances require the sterilization of pets in the State of Nevada and what has been found is that many people are unaware of the local ordinance requirements.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 84.

Bill read second time.

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

Amendment No. 773.

"SUMMARY—Revises provisions governing ~~[unemployment]~~ compensation. (BDR 53-546)"

"AN ACT relating to ~~[unemployment]~~ compensation; *revising provisions related to compensation for overtime;* revising provisions for the collection of benefits required to be repaid to the Employment Security Division of the Department of Employment, Training and Rehabilitation; establishing a penalty for fraudulently obtaining unemployment benefits under certain circumstances; revising provisions relating to the authorized use of money in the Employment Security Fund by the Administrator of the Division; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 8.3 of this bill revises provisions related to an exception to certain requirements for compensation for overtime.

Section 8.5 of this bill authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to assess against a person who is overpaid benefits certain administrative fees prescribed by an agency of the United States. Section 9 of this bill revises existing law by providing that certain fraudulent activity conducted by a person in order to obtain or increase any unemployment benefit or payment, including the filing of a claim while incarcerated without expressly disclosing that the person is incarcerated, constitutes unemployment insurance fraud. Section 9 also requires a person who commits unemployment insurance fraud to repay to the Administrator all of the benefits received by that person, in addition to any interest, penalties and costs. Section 9 further provides that a person is disqualified from receiving unemployment compensation benefits for a specified period, but authorizes the Administrator to waive the period of disqualification for good cause shown or if the person adheres to a repayment schedule. Additionally, section 9 provides that a person who obtains benefits of $250 or more while committing unemployment insurance fraud shall be punished in the same manner as if he committed theft. Section 9 also provides that the repayment of such benefits may not be done by the withholding of benefits otherwise due and payable to the person unless the period of disqualification is waived by the Administrator. Finally, section 9 authorizes the Administrator to impose a penalty equal to not more than 25 or 50 percent of the total amount of benefits improperly obtained by a person, depending on the amount improperly obtained by the person. (NRS 612.445)

Section 10 of this bill revises existing law by authorizing the Administrator to use money from the Employment Security Fund for the payment of costs of any program or the implementation of procedures for the proper payment of benefits and the collection of contributions and reimbursements. (NRS 612.615)

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.3. *NRS 608.018 is hereby amended to read as follows:*

608.018 1. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works:

(a) More than 40 hours in any scheduled week of work; or

(b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

2. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works more than 40 hours in any scheduled week of work.

3. The provisions of subsections 1 and 2 do not apply to:

(a) Employees who are not covered by the minimum wage provisions of NRS 608.250;

(b) Outside buyers;

(c) ~~[Salesmen earning commissions]~~ *Employees* in a retail *or service* business if their regular rate is more than 1 1/2 times the minimum wage, and more than ~~[one half]~~ *half* their compensation *for a representative period* comes from commissions ~~[,]~~ *on goods or services, with the representative period being, to the extent allowed pursuant to federal law, not less than one month;*

(d) Employees who are employed in bona fide executive, administrative or professional capacities;

(e) Employees covered by collective bargaining agreements which provide otherwise for overtime;

(f) Drivers, drivers' helpers, loaders and mechanics for motor carriers subject to the Motor Carrier Act of 1935, as amended;

(g) Employees of a railroad;

(h) Employees of a carrier by air;

(i) Drivers or drivers' helpers making local deliveries and paid on a trip-rate basis or other delivery payment plan;

(j) Drivers of taxicabs or limousines;

(k) Agricultural employees;

(l) Employees of business enterprises having a gross sales volume of less than $250,000 per year;

(m) Any salesman or mechanic primarily engaged in selling or servicing automobiles, trucks or farm equipment; and

(n) A mechanic or workman for any hours to which the provisions of subsection 3 or 4 of NRS 338.020 apply.

Sec. 8.5. NRS 612.365 is hereby amended to read as follows:

612.365 1. Any person who is overpaid any amount as benefits under this chapter is liable for the amount overpaid unless:

(a) The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the recipient; and

(b) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience, as determined by the Administrator.

2. The amount of the overpayment must be assessed to the liable person, and he must be notified of the basis of the assessment. The notice must specify the amount for which the person is liable. In the absence of fraud, misrepresentation or willful nondisclosure, notice of the assessment must be mailed or personally served not later than 1 year after the close of the benefit year in which the overpayment was made.

3. At any time within 5 years after the notice of overpayment, the Administrator may recover the amount of the overpayment by using the same methods of collection provided in NRS 612.625 to 612.645, inclusive, 612.685 and 612.686 for the collection of past due contributions or by deducting the amount of the overpayment from any benefits payable to the liable person under this chapter.

4. The Administrator may waive recovery or adjustment of all or part of the amount of any such overpayment which he finds to be uncollectible or the recovery or adjustment of which he finds to be administratively impracticable.

5. *To the extent allowed pursuant to federal law, the Administrator may assess any administrative fee prescribed by an applicable agency of the United States regarding the recovery of such overpayments.*

6. Any person against whom liability is determined under this section may appeal therefrom within 11 days after the date the notice provided for in this section was mailed to, or served upon, the person. An appeal must be made and conducted in the manner provided in this chapter for the appeals from determinations of benefit status. The 11-day period provided for in this subsection may be extended for good cause shown.

Sec. 9. NRS 612.445 is hereby amended to read as follows:

612.445 ~~[When the Administrator finds that any]~~

1. A person ~~[has made]~~ *shall not make* a false statement or representation, knowing it to be false, or knowingly ~~[failed]~~ *fail* to disclose a material fact in order to obtain or increase any benefit or other payment under this chapter, *including, without limitation, by failing to properly report earnings or by filing a claim for benefits using the social security number, name or other personal identifying information of another person. A person who violates the provisions of this subsection commits unemployment insurance fraud.*

2. When the Administrator finds that a person has committed unemployment insurance fraud pursuant to subsection 1, the person shall repay to the Administrator for deposit in the Fund a sum equal to all of the benefits received by or paid to the person for each week with respect to which the false statement or representation was made or to which he failed to disclose a material fact ~~[. The]~~ *in addition to any interest, penalties and costs related to that sum.*

3. Except as otherwise provided in this subsection and subsection 8, the person is disqualified from receiving unemployment compensation benefits under this chapter ~~[for]~~ *:*

(a) For a period ~~[of]~~ *beginning with the first week claimed in violation of subsection 1 and ending* not more than 52 consecutive weeks ~~[beginning with]~~ *after* the week in which it is determined that ~~[an improper]~~ *a* claim was filed ~~[involving the false statement or representation or failure to disclose a material fact.]~~ *in violation of subsection 1; or*

(b) Until the sum described in subsection 2, in addition to any interest, penalties or costs related to that sum, is repaid to the Administrator,

➥ *whichever is longer*. The Administrator shall fix the period of disqualification according to the circumstances in each case.

4. It is a violation of subsection 1 for a person to file a claim, or to cause or allow a claim to be filed on his behalf, if:

(a) The person is incarcerated in the state prison or any county or city jail or detention facility or other correctional facility in this State; and

(b) The claim does not expressly disclose his incarceration.

5. A person who obtains benefits of $250 or more in violation of subsection 1 shall be punished in the same manner as theft pursuant to subsection 3 or 4 of NRS 205.0835.

6. In addition to the repayment of benefits required pursuant to subsection 2, if the amount of benefits which must be repaid is greater than $1,000, the Administrator may impose a penalty equal to not more than:

(a) If the amount of such benefits is greater than $1,000 but not greater than $2,500, 25 percent; or

(b) If the amount of such benefits is greater than $2,500, 50 percent,

➥ *of the total amount of benefits received by the person in violation of subsection 1 or any other provision of this chapter.*

7. Except as otherwise provided in subsection 8, a person may not pay benefits as required pursuant to subsection 2 by using benefits which would otherwise be due and payable to the person if he was not disqualified.

8. The Administrator may waive the period of disqualification prescribed in subsection 3 for good cause shown or if the person adheres to a repayment schedule authorized by the Administrator that is designed to fully repay benefits received from an improper claim, in addition to any related interest, penalties and costs, within 18 months. If the Administrator waives the period of disqualification pursuant to this subsection, the person may repay benefits and any related interest, penalties and costs as required pursuant to subsection 2 by using any benefits which are due and payable to the person.

9. The Administrator may recover any money required to be paid pursuant to this section in accordance with the provisions of NRS 612.365 and may collect interest on any such money in accordance with the provisions of NRS 612.620.

Sec. 10. NRS 612.615 is hereby amended to read as follows:

612.615 1. There is hereby created the Employment Security Fund as a special revenue fund.

2. All interest and forfeits collected under NRS 612.618 to 612.675, inclusive, and 612.740 must be paid into the Fund.

3. All money which is deposited or paid into the Fund is hereby appropriated and made available to the Administrator. The money may not be expended or made available for expenditure in any manner which would permit its substitution for, or a corresponding reduction in, federal payments which would, in the absence of this money, be available to finance expenditures for the administration of the employment security laws of the State of Nevada.

4. This section does not prevent this money from being used as a revolving fund to cover expenditures, necessary and proper under the law, for which federal payments have been duly requested but not yet received, subject to the repayment to the Fund of such expenditures when received.

5. The money in this Fund must be used by the Administrator for the payment of costs of ~~[administration]~~ *:*

(a) Administration which are found not to have been properly and validly chargeable against federal grants received for or in the Unemployment Compensation Administration Fund ~~[.]~~ *; or*

(b) Any program or the implementation of procedures deemed necessary by the Administrator to ensure the proper payment of benefits and collection of contributions and reimbursements pursuant to this chapter.

6. Any balances in this Fund do not lapse at any time, but are continuously available to the Administrator for expenditure consistent with this chapter.

7. Money in this Fund must not be commingled with other state money, but must be maintained in a separate account on the books of the depositary.

Sec. 11. NRS 612.715 is hereby amended to read as follows:

612.715 ~~[Whoever]~~ *Except as otherwise provided in subsection 5 of NRS 612.445, whoever* makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, is guilty of a misdemeanor.

Sec. 12. NRS 612.720 is hereby amended to read as follows:

612.720 ~~[Whenever]~~ *Except as otherwise provided in subsection 5 of NRS 612.445, whenever* two or more persons ~~[shall]~~ conspire to obtain or increase any benefit or other payment under this chapter by a false statement or representation knowing it to be false, or by knowingly failing to disclose a material fact, or whenever any person makes a series of false statements or representations knowing them to be false, to obtain or increase benefit payments under this chapter over a period of more than 1 week, every such person is guilty of a gross misdemeanor.

Sec. 13. NRS 612.725 is hereby amended to read as follows:

612.725 ~~[Any]~~ *Except as otherwise provided in subsection 5 of NRS 612.445, any* person residing in this State who claims benefits under any agreement existing between the Division and some other state or the Federal Government, who willfully makes a false statement or representation or knowingly fails to disclose a material fact to obtain or increase benefits under the provisions of the unemployment law of any other state or the Federal Government is guilty of a misdemeanor.

Sec. 14. This act becomes effective on July 1, 2009.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Thank you, Mr. President. The amendment to Senate Bill No. 84 makes various changes to the payment of overtime. This is a issue that arose with banquet servers and their types of schedules. They work seven, eight, or nine days in a row and then will not work again for three or four days. This adjusts the provisions so that they can work those types of schedules without the overtime and when they are actually needed.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 88.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 690.

"SUMMARY— ~~[Establishes a civil remedy for a person who was a victim of a sexual offense which was used to promote]~~ *Makes various changes relating to* child pornography. (BDR 15-267)"

"AN ACT relating to sexual offenses; *prohibiting a person from using the Internet to access child pornography;* establishing a civil remedy *under certain circumstances* for a person who ~~[was a victim of a sexual offense which was used to promote]~~ *appeared in* child pornography; *providing a penalty;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill *prohibits a person from using the Internet to access child pornography.*

Section 4 of this bill establishes a civil cause of action for a person who, ~~[as a minor, was a victim of a sexual offense where any depiction of sexual conduct of the offense was used to promote]~~ *while under the age of 16 years, appeared in* child pornography ~~[.]~~ *and suffered personal or psychological injury as the result.* A ~~[victim]~~ *person* who prevails in such an action may recover his actual damages, which are deemed to be at least $150,000, plus attorney's fees and costs. Section 3 of this bill establishes the statute of limitations for such an action.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[*1. Any person who, while a minor, was a victim of a sexual offense of which any depiction of sexual conduct of such offense was used to promote child pornography and who suffered personal or psychological injury as a result may bring an action against any person who promoted or possessed the child pornography, regardless of whether the victim is now an adult.*~~

~~*2. A victim who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.*~~

~~*3. A victim may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a victim has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.*~~

~~*4. It is not a defense to a cause of action under this section that a defendant did not know the victim or did not personally engage in the sexual conduct which involved the victim and which is depicted in the child pornography.*~~

~~*5. An action may be brought pursuant to this section regardless of whether any person has been prosecuted or convicted of a sexual offense involving the victim.*~~

~~*6. As used in this section:*~~

~~*(a) "Child pornography" means a violation of NRS 200.710 to 200.730, inclusive.*~~

~~*(b) "Sexual offense" means a violation of NRS 200.366 or 201.230.]*~~

1. Any person who, knowingly, willfully and with the specific intent to view any film, photograph or other visual presentation depicting a person under the age of 16 years engaging in or simulating sexual conduct, uses the Internet to access such a film, photograph or other visual presentation is guilty of:

(a) For the first offense, a category C felony and shall be punished as provided in NRS 193.130.

(b) For any subsequent offense, 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.

2. As used in this section, "sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

Sec. 2. NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, *and section 1 of this act,* unless the context otherwise ~~[provides:]~~ *requires:*

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 3. NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in *subsection 2 and* NRS 217.007, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:

(a) Reaches 18 years of age; or

(b) Discovers or reasonably should have discovered that his injury was caused by the sexual abuse,

➥ whichever occurs later.

2. *An action to recover damages pursuant to section ~~[1]~~ 4 of this act must be commenced within 3 years after the occurrence of the following, whichever is later:*

(a) The court enters a verdict in a related criminal case; or

(b) The victim reaches the age of 18 years.

3. As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.

Sec. 4. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who, while under the age of 16 years, appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result may bring an action against any person who, while over the age of 18 years, knowingly and willfully:

(a) Promoted the film, photograph or other visual presentation;

(b) Possessed the film, photograph or other visual presentation; or

(c) Used the Internet to access the film, photograph or other visual presentation, with the specific intent to view the film, photograph or other visual presentation.

2. A plaintiff who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.

3. A plaintiff may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a plaintiff has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.

4. It is not a defense to a cause of action under this section that a defendant did not know the plaintiff or did not engage in the sexual conduct with the plaintiff.

5. As used in this section:

(a) "Promote" has the meaning ascribed to it in NRS 200.700.

(b) "Sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

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 prohibits a person from using the Internet to access child pornography.

It provides that anyone who appeared in child pornography while under the age of 16 and who suffered personal or psychological injury as a result, may bring an action against an adult who knowingly and willfully promoted or possessed the pornography.

It allows a plaintiff who prevails in the action to recover damages of at least $150,000 and authorizes the plaintiff to request a pseudonym in all court proceedings and records.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

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.

➽ 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 Washington.

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

SENATOR WIENER:

Thank you, Mr. President. The amendment 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. 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.

There were concerns yesterday about the responsibility of the parent in terms of financial accountability. This amendment retains current statutory provisions which authorize payments of certain public assistance to create a debt for support to the Division by the responsible parent.

Section 2 was deleted in its entirety for several good reasons. First, the Department already has all the tools it needs to seek reimbursement of funds expended on behalf of a child. The language in the bill would have taken away all judicial discretion, ignored all child support orders issued by District Judges, and made parents who are compliant with their child support ordered to pay yet more money, all with no due process.

SENATOR WASHINGTON:

Thank you, Mr. President. This is to insure that there is due process to those parents that may arbitrarily be accused of not paying child support or extracting child support out of their court order. So now there is a due process set in place opposed to the original bill where the Division could have extracted child support payments without an inquiry from the parents.

Amendment adopted.

The following amendment was proposed by Senator Care:

Amendment No. 847.

"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 a district court to review, on the record, 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. (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 *refuses or intentionally* 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.

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 review the recommendation on the record of the case before the master.*

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]*~~ *Refuses or intentionally 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 , *refused or intentionally 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 refused or intentionally 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]*~~ *Refuses or intentionally 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 refused or intentionally 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 ,

refused or intentionally 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.

➥ 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.

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 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 bill said there were penalties for the employer who failed to deliver the garnished wages of the employee. What the amendment does is add the language

"refuses or intentionally fails" making the distinction between someone who inadvertently fails to pay as opposed to someone who intentionally does not pay.

Amendments adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 124.

Bill read second time and ordered to third reading.

Assembly Bill No. 162.

Bill read second time.

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

Amendment No. 699.

"SUMMARY—Requires certain policies of health insurance and health care plans to provide coverage for screening for and treatment of autism. (BDR 57-44)"

"AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide an option of coverage for screening for and treatment of autism; authorizing the Board of Psychological Examiners to license behavior analysts and *assistant behavior analysts and to certify* autism behavior ~~[therapists;]~~ *interventionists; increasing the size of the Board of Psychological Examiners from five members to seven members;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555) Sections 1-8.5 of this bill require certain health care plans and policies of insurance to also provide an option *or a requirement, as applicable,* of coverage for the screening for, including the diagnosis of, and the treatment of autism spectrum disorders in certain circumstances.

Sections 12 ~~[and 13]~~ *-12.4 and 12.7-14.5* of this bill provide for the licensure of behavior analysts and *assistant behavior analysts and the certification of* autism behavior ~~[therapists]~~ *interventionists* by the Board of Psychological Examiners.

Sections 12.5 and 12.6 of this bill increase the size of the Board of Psychological Examiners from five members to seven members, adding one member who is a licensed behavior analyst and one member who

represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

The provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after January 1, 2011.

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

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders for persons covered by the policy under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. Optional coverage provided pursuant to this section must be subject to:

(a) A maximum benefit of not less than $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. ~~[An insurer]~~ A health benefit plan that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

7. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~[or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.]~~ , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(e)]~~ (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(f)]~~ (g) "Licensed ~~[autism]~~ assistant behavior ~~[therapist"]~~ analyst" means a person who ~~[is]~~ holds current certification or meets the standards to be certified as ~~[an autism]~~ a board certified assistant behavior ~~[therapist]~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~[.]~~ or psychologist.

~~[(g)]~~ (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the

Behavior Analyst Certification Board, Inc., or any successor in interest to that organization , and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(h)]~~ (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

~~[(i)]~~ (j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

~~[(j)]~~ (k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

~~[(k)]~~ (l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~[(l)]~~ (m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

~~[(m)]~~ (n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 2. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[.]~~ *, and section 1 of this act.*

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a policy of group health insurance ~~[policy]~~ to the same extent as other medical services or prescription drugs covered by the policy.

3. ~~[An insurer]~~ A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~[or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.]~~ , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(e)]~~ (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(f)]~~ (g) "Licensed ~~[autism]~~ assistant behavior ~~[therapist"]~~ analyst" means a person who ~~[is]~~ holds current certification or meets the standards to be certified as ~~[an autism]~~ a board certified assistant behavior ~~[therapist]~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~[,]~~ or psychologist.

~~[(g)]~~ (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(h)]~~ (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

~~[(i)]~~ (j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

~~[(j)]~~ (k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

~~[(k)]~~ (l) *"Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

~~[(l)]~~ (m) *"Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

~~[(m)]~~ (n) *"Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 3.5. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the ~~[policy of group]~~ health ~~[insurance]~~ benefit plan under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~[insurance policy]~~ benefit plan to the same extent as other medical services or prescription drugs covered by the ~~[policy.]~~ plan.

3. ~~[An insurer]~~ A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the ~~[policy;]~~ plan; or

(b) Refuse to issue a ~~[policy of group]~~ health ~~[insurance]~~ benefit plan or cancel a ~~[policy of group]~~ health ~~[insurance]~~ benefit plan solely because the person applying for or covered by the ~~[policy]~~ plan uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, ~~[an insurer]~~ a carrier shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ ~~*[An insurer]*~~ *A carrier may request a copy of and review a treatment plan created pursuant to this subsection.*

6. A ~~*[policy]*~~ *health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the* ~~*[policy]*~~ *plan or the renewal which is in conflict with subsections 1 or 2 is void.*

7. Nothing in this section shall be construed as requiring ~~*[an insurer]*~~ *a carrier to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~*[or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.]*~~ *, licensed assistant behavior analyst or certified autism behavior interventionist.*

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~*[(e)]*~~ *(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without*

limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(f)]~~ (g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(g) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.~~

~~(h)~~ (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

~~[(i)]~~ (j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

~~[(j)]~~ (k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

~~[(k)]~~ (l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~[(l)]~~ (m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

~~[(m)]~~ (n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~[insurance policy]~~ care plan to the same extent as other medical services or prescription drugs covered by the ~~[policy.]~~ plan.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an ~~[insured]~~ enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an ~~[insured]~~ enrollee may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ ~~[An insurer]~~ A health maintenance organization may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring ~~[an insurer]~~ a health maintenance organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human

behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~[or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.]~~ , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(e)]~~ (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(f)]~~ (g) "Licensed ~~[autism]~~ assistant behavior ~~[therapist"]~~ analyst" means a person who ~~[is]~~ holds current certification or meets the standards to be certified as ~~[an autism]~~ a board certified assistant behavior ~~[therapist]~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~[.]~~ or psychologist.

~~[(g)]~~ (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(h)]~~ (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

~~[(i)]~~ *(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*

~~[(j)]~~ *(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*

~~[(k)]~~ *(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.*

~~[(l)]~~ *(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*

~~[(m)]~~ *(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.*

Sec. 6. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, *and section 5 of this act*, 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 7. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the

provisions of this chapter if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, *and section 5 of this act*, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period

of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 8. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a managed care organization for group coverage must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. A health care plan issued by a managed care organization for individual coverage must provide an option for coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

3. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~[insurance policy]~~ care plan to the same extent as other medical services or prescription drugs covered by the ~~[policy.]~~ plan.

~~[3.]~~ 4. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

~~[4.]~~ 5. Except as provided in subsections 1 ~~[and 2,]~~ , 2 and 3, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

~~[5.]~~ 6. *Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:*

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ ~~[An insurer]~~ *A managed care organization may request a copy of and review a treatment plan created pursuant to this subsection.*

~~[6.]~~ 7. *An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or ~~[2]~~ 3 is void.*

~~[7.]~~ 8. *Nothing in this section shall be construed as requiring ~~[an insurer]~~ a managed care organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.*

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

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~[or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.]~~ , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(e)]~~ (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(f)]~~ (g) "Licensed ~~[autism]~~ assistant behavior ~~[therapist"]~~ analyst" means a person who ~~[is]~~ holds current certification or meets the standards to be certified as ~~[an autism]~~ a board certified assistant behavior ~~[therapist]~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~[.]~~ or psychologist.

~~[(g)]~~ (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(h)]~~ (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

~~[(i)]~~ (j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

~~[(j)]~~ (k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

~~[(k)]~~ (l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~[(l)]~~ (m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

~~[(m)]~~ (n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 8.5. NRS 695G.090 is hereby amended to read as follows:

695G.090 1. Except as otherwise provided in subsection 3, the provisions of this chapter apply to each organization and insurer that operates as a managed care organization and may include, without limitation, an insurer that issues a policy of health insurance, an insurer that issues a policy

of individual or group health insurance, a carrier serving small employers, a fraternal benefit society, a hospital or medical service corporation and a health maintenance organization.

2. In addition to the provisions of this chapter, each managed care organization shall comply with:

(a) The provisions of chapter 686A of NRS, including all obligations and remedies set forth therein; and

(b) Any other applicable provision of this title.

3. The provisions of NRS 695G.164, 695G.200 to 695G.230, inclusive, ~~[and]~~ 695G.430 *and section 8 of this act* do not apply to a managed care organization that provides health care services to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a managed care organization from any provision of this chapter for services provided pursuant to any other contract.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 641 of NRS is hereby amended by adding thereto ~~[a new section to read]~~ *the provisions set forth* as ~~[follows:]~~ *sections 12.1, 12.2 and 12.3 of this act.*

Sec. 12.1. 1. Each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 18 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

2. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and

(b) Issue a written statement to the applicant of its determination.

3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.

Sec. 12.2. The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst , licensed assistant behavior analyst or certified autism behavior ~~[therapist.]~~ interventionist.

Sec. 12.3. *1. A licensed assistant behavior analyst shall not provide or supervise behavior therapy except under the supervision of:*

(a) A licensed psychologist; or

(b) A licensed behavior analyst.

2. A certified autism behavior interventionist shall not provide behavior therapy except under the supervision of:

(a) A licensed psychologist;

(b) A licensed behavior analyst; or

(c) A licensed assistant behavior analyst.

Sec. 12.4. *NRS 641.020 is hereby amended to read as follows:*

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in *section 1 of this act and* NRS 641.021 to 641.027, inclusive, have the meanings ascribed to them in those sections.

Sec. 12.5. *NRS 641.030 is hereby amended to read as follows:*

641.030 The Board of Psychological Examiners, consisting of ~~[five]~~ *seven* members appointed by the Governor, is hereby created.

Sec. 12.6. *NRS 641.040 is hereby amended to read as follows:*

641.040 1. The Governor shall appoint to the Board:

(a) Four members who are licensed psychologists in the State of Nevada with at least 5 years of experience in the practice of psychology after being licensed.

(b) *One member who is a licensed behavior analyst in the State of Nevada.*

(c) One member who has resided in this State for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

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

2. A person is not eligible for appointment unless he is:

(a) A citizen of the United States; and

(b) A resident of the State of Nevada.

3. The member who is a representative of the general public:

(a) Shall not participate in preparing, conducting or grading any examination required by the Board.

(b) Must not be a psychologist, an applicant or former applicant for licensure as a psychologist, a member of a health profession, the spouse or the parent or child, by blood, marriage or adoption, of a psychologist, or a member of a household that includes a psychologist.

4. Board members must not have any conflicts of interest or the appearance of such conflicts in the performance of their duties as members of the Board.

Sec. 12.7. *NRS 641.100 is hereby amended to read as follows:*

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination *,* ~~[and]~~ licensure *and certification* of applicants, the granting,

refusal, revocation or suspension of licenses ~~[,]~~ *and certificates* and the practice of psychology.

Sec. 12.8. NRS 641.110 is hereby amended to read as follows:

641.110 The Board may, under the provisions of this chapter:

1. Examine and pass upon the qualifications of the applicants for licensure ~~[,]~~ *and certification.*

2. License *and certify* qualified applicants.

3. Revoke or suspend licenses ~~[,]~~ *and certificates.*

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

Sec. 13. NRS 641.170 is hereby amended to read as follows:

641.170 1. Each application *for licensure as a psychologist* must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. *Each application for licensure as a behavior analyst ~~[for autism behavior therapist]~~ must be accompanied by evidence satisfactory to the Board that the applicant:*

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a master's degree from an accredited college or university in a field of social science or special education approved by the Board.

(e) Has completed other education , ~~[or]~~ training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

3. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a bachelor's degree from an accredited college or university in a field of social science or special education approved by the Board.

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

4. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure *;* ~~[as a psychologist;]~~ and

(b) Issue a written statement to the applicant of its determination.

~~[3.]~~ *5.* The written statement issued to the applicant pursuant to subsection ~~[2]~~ ~~*[3]*~~ *4* must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant *for licensure as a psychologist* has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that his doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 14. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license *as a psychologist* must pass the Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board. In addition to this written examination, the Board may require an oral examination in whatever applied or theoretical fields it deems appropriate.

2. The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.

3. The Board shall notify each applicant of the results of his written examination and supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.

4. If an applicant fails the examination, he may request in writing that the Board review his examination.

5. The Board may waive the requirement of a written examination for a person who:

(a) Is licensed in another state;

(b) Has 10 years experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 14.5. *NRS 641.370 is hereby amended to read as follows:*

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the written examination, in addition to the actual cost to the Board of the examination $100

For the special ~~[oral]~~ examination, in addition to the actual costs to the Board of the examination 100

For the issuance of an initial license *or certificate* 25

For the biennial renewal of a license *of a psychologist* 500

For the biennial renewal of a license of a licensed behavior analyst *400*

For the biennial renewal of a license of a licensed assistant behavior analyst *275*

For the biennial renewal of a certificate of a certified autism behavior interventionist *175*

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license 100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology 300

For the registration of a nonresident to practice as a consultant 100

2. An applicant who passes the examination and is eligible for a license *or certificate* shall pay the biennial fee for the renewal of a license *or certificate* which must be prorated for the period from the date the license *or certificate* is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 15. The Board of Psychological Examiners shall begin licensing behavior analysts and ~~[autism]~~ *assistant* behavior ~~[therapists]~~ *analysts* pursuant to section 13 of this act *and certifying autism behavior interventionists pursuant to section 12.1 of this act* no later than January 1, 2010.

Sec. 16. ~~[1.]~~ This act becomes effective ~~[upon]~~ :

1. Upon passage and approval for the purpose of adopting regulations *,* ~~[and]~~ licensing behavior analysts *and assistant behavior analysts* and *certifying* autism behavior ~~[therapists.]~~ *interventionists; and*

2. ~~[This section and sections 3 to 15, inclusive, of this act become effective on October 1, 2009.~~

~~3. Sections 1 and 2 of this act become effective on~~] *On* January 1, 2011 [.] *, for all other purposes*.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton and Cegavske.

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

SENATOR CARLTON:

Amendment No. 699 to Assembly Bill No. 162 makes changes to the regulation of behavior professionals. It provides for the licensure of assistant behavior analysts and the certification of autism-behavior interventionists. The amendment also increases the size of the Board of Psychological Examiners from five to seven members, adding one member who is a licensed behavior analyst. Since they are going to be under this Board, we thought they should have some representation on the Board and one member who represents the interests of providers of health care to patients who are indigent, uninsured or unable to afford health care. That is the safety-net provider provision we have added to different boards as we have made changes to those boards. Finally, the amendment modifies certain language in the bill to clarify that those sections pertain to a health plan rather than an insurance policy.

SENATOR CEGAVSKE:

While I admire the Chair for her hard work, I am concerned about two issues. While I have heard testimony and seen the tearful eyes of parents who have an autistic child, I am concerned that we have exempted some insurance groups from being included in this mandate. Why would we exempt those insurance groups when we know there will be autistic children whose parents have insurance from those groups? What are they supposed to do if their insurance does not cover this?

What is the estimated cost to the other insurance carriers who will carry this coverage? At first, we were told the cost would be $8.50 per month per person. That would be costly to a family on a monthly basis. I would like the numbers on that.

Last session, we added more mandates and there were exemptions for certain insurance groups. What do people do whose insurance groups are left out of these mandates? How do they get coverage?

SENATOR CARLTON:

I was disappointed in the exemptions. The Senator from Clark District 12 and I made passionate statements during the hearing against having children exempted. I have a nephew who is autistic. It took years to get him diagnosed, and it was heart wrenching to watch my sister go through it. Knowing she could be one of those people who could be exempted was disturbing. When you look at the list of mandates required by the State of Nevada, we compared a few of the bigger plans in this State with the list of mandates, and out of 25 mandates, there were only 2 that other health plans had not picked up. When we require mandates, it seems to jump-start how people think about an issue, and there becomes a demand and peer-pressure to offer the coverage.

I am disheartened that we are not reaching out to state employees' children. I believe a nickel spent now will save us a fortune in the future. The testimony we heard in committee was that if we treat these children when they are young and they get the right treatment, then, we would save a lot of money in the future. We heard the cost of insurance could be anywhere from 1 to 2 percent. Someone even suggested in the double digits. I could not get any confirmation of that number. We did get a buy-off from some of the other insurance companies. This was a consensus piece of legislation. It does not reach the Employee Retirement Income Security Act plans. It does not reach self-insured. We cannot go after them because of the way the federal laws are set up.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 181.

Bill read second time.

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

Amendment No. 740.

"SUMMARY—Revises provisions governing charter schools. (BDR 34-550)"

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

Legislative Counsel's Digest:

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

Existing law prescribes the membership of a committee to form a charter school and prescribes the process for the initial review of an application to form a charter school by the Department of Education. (NRS 386.520)

Section ~~[1]~~ *36* of this bill revises the membership of the committee and the process for review of the application by the Department.

Upon approval of an application by the Department, existing law provides that a committee to form a charter school may submit an application to the proposed sponsor. (NRS 386.525) Section ~~[2]~~ *37* of this bill revises provisions governing the review of such an application if the ~~[State Board of Education]~~ *Nevada Charter School Institute* is the proposed sponsor.

Existing law authorizes the governing body of a charter school to submit a request for an amendment to the written charter. (NRS 386.527) Section ~~[3]~~ *38* of this bill provides that if the sponsor of the charter school denies the request for an amendment, the sponsor must provide written notice of the reasons for the denial.

Existing law requires the Department to provide certain information regarding the charter schools operating in this State. (NRS 386.545) Section ~~[5]~~ *42* of this bill provides that if the Department requests certain information from a charter school that is not required by specific statute ~~[,]~~ *or regulation,* the Department shall include in the request a mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will cost the charter school money.

Existing law prescribes the membership, qualifications and powers of the governing body of a charter school and requires the governing body to hold at least quarterly meetings. (NRS 386.549) Section ~~[6]~~ *44* of this bill revises provisions governing the membership of the governing body and authorizes the governing body, upon a majority vote of the members, to set a salary for the attendance of its members at meetings of the governing body, not to exceed $80 per meeting per month.

Existing law prescribes the requirements for a charter school to be exempt from an annual performance audit and undergo a performance audit every 3 years and to be eligible for available money from legislative appropriations or otherwise for facilities. A charter school is eligible if at least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination. (NRS 386.5515) Section ~~[7]~~ *45* of this bill revises this eligibility provision to require that at least 75 percent of the pupils enrolled in the charter school in grade 12 in the immediately preceding school year who have satisfied the coursework requirements for graduation have passed the high school proficiency examination.

Existing law provides that the pupils enrolled in charter schools must be included in the count for the purposes of apportionments and allowances from the State Distributive School Account and provides for the reimbursement of administrative costs to the sponsor of a charter school. (NRS 386.570) Section ~~[9]~~ *47* of this bill requires the ~~[State Board]~~ *Nevada Charter School Institute* to prescribe a process which ensures that all charter schools, regardless of sponsor, have information of all sources of

funding for the public schools provided through the Department. Section ~~[9]~~ *7* also changes the percentage of administrative costs that the ~~[State Board or a college or university]~~ *sponsor of a charter school* may receive for sponsorship. ~~[after the first year of operation of a charter school from 1.5 percent to 1 percent.]~~

Existing law prescribes the process for a parent or legal guardian of a child to file a notice of intent to homeschool the child with the superintendent of schools of the school district. (NRS 392.700) Section ~~[10]~~ *60* of this bill provides that if such a child seeks admittance or entrance to a public school after being homeschooled, the parent or legal guardian shall notify the superintendent to withdraw the notice of intent to homeschool. Section ~~[10]~~ *60* further provides that if such a child enrolls in a charter school, the charter school shall notify the board of trustees of the school district in which the child resides.

Existing law creates the Subcommittee on Charter Schools. (NRS 386.507) Section ~~[11]~~ *61* of this bill repeals the Subcommittee.

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

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

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

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

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

Sec. 2. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district. ~~[, including, without~~

~~limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~ The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district ~~[, including, without limitation, each charter school in the district,]~~ and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and

389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district ~~[, including, without limitation, pupils enrolled in charter schools in the district,]~~ with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, ~~[including, without limitation, each charter school in the district,]~~ information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole ~~[, including, without limitation, each charter school in the district,]~~ and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~ The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) ~~[On and after July 1, 2005, the]~~ *The* number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) ~~[On and after July 1, 2006, the]~~ *The* number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) ~~[On and after July 1, 2005, the]~~ *The* number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) ~~[On and after July 1, 2006, the]~~ *The* number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~ If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including ~~[:~~

~~(1) Any]~~ *any* special programs for pupils at an individual school . ~~[; and~~

~~(2) The curriculum used by each charter school in the district.]~~

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~

(2) For each elementary school, middle school and junior high school in the district, ~~[including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school,]~~ information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in

grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~

(j) Efforts made by the school district and by each school in the district ~~[, including, without limitation, each charter school in the district,]~~ to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district . ~~[, including, without limitation, each charter school in the district.]~~

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district . ~~[, including, without limitation, each charter school in the district.]~~

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~

(p) The transiency rate of pupils for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school in the district.]~~ For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school sponsored by the district.]~~ The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole. ~~[, including, without limitation, each charter school in the district.]~~

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, ~~[including, without limitation, each charter school in the district,]~~ the percentage of pupils who graduated from that high school ~~[or charter school]~~ in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school ~~[, including, without limitation, each charter school,]~~ and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole. ~~[, including, without limitation, each charter school in the district.]~~

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district ~~[, including, without limitation, each charter school in the district,]~~ has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district. ~~[, including, without limitation, each charter school the district.]~~ The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, ~~[including, without limitation, each charter school that operates as a high school,]~~ information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

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

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

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

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

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

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

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

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

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

4. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 *or maintained by a charter school for purposes of the reporting required pursuant to subsection 3* must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

~~[4.]~~ *5.* The annual report of accountability prepared pursuant to subsection 2 *or 3, as applicable*, must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

~~[5.]~~ *6.* The Superintendent of Public Instruction shall:

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

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

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

➥ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

~~[6.]~~ *7.* The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher

Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

~~[7.]~~ *8.* On or before August 15 of each year ~~[, the]~~ *:*

(a) The board of trustees of each school district *and the Nevada Charter School Institute* shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

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

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

(a) Provide written notice that the report required pursuant to subsection 2 *or 3, as applicable,* is available on the Internet website maintained by the school district ~~[,]~~ *or the Nevada Charter School Institute,* if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;
(2) State Board;
(3) Department;
(4) Committee; and
(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 *or 3, as applicable,* in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district ~~[,]~~ *or the Nevada Charter School Institute,* if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, ~~[including, without limitation, each charter school in the district,]~~ the residents of the district ~~[,]~~ and the parents and guardians of pupils enrolled in schools in the district*.* ~~[, including, without limitation, each charter school in the district.]~~ *If the Nevada Charter School Institute does not maintain a website, the Nevada Charter School Institute shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school in this State and the parents and guardians of pupils enrolled in each charter school in this State.*

~~[9.]~~ *10.* Upon the request of the Governor, an entity described in paragraph (a) of subsection ~~[8]~~ *9* or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2 ~~[.]~~ *or 3, as applicable.*

~~[10.]~~ *11.* As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. *NRS 385.349 is hereby amended to read as follows:*

385.349 1. The board of trustees of each school district *and the Nevada Charter School Institute* shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) ~~[The]~~ *If prepared by a school district, the* information set forth in subsection 1 of NRS 385.34692, reported for the school district as a whole and for each school within the school district;

(b) *If prepared by the Nevada Charter School Institute, the information set forth in subsection 1 of NRS 385.34692, reported for the charter schools in this State as a whole and for each charter school in this State;*

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

~~[(c)]~~ *(d)* Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

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

3. The Department shall, in consultation with the Bureau *,* ~~[and]~~ the school districts ~~[,]~~ *and the Nevada Charter School Institute*, prescribe a form that contains the basic information required by subsection 1. The board of trustees of a school district *or the Nevada Charter School Institute* may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district *and the Nevada Charter School Institute* shall:

(a) Submit the summary in an electronic format to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee;

(5) Bureau; and

(6) Schools within the school district ~~[.]~~ *or charter schools, as applicable.*

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

district ~~[,]~~ *or the Nevada Charter School Institute,* if any. If a school district *or the Nevada Charter School Institute* does not maintain a website, the district *or the Nevada Charter School Institute* shall otherwise provide for public dissemination of the summary. The board of trustees of each school district *and the Nevada Charter School Institute* shall ensure that the parents and guardians of pupils enrolled in the school district *or each charter school, as applicable,* have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district ~~[,]~~ *or the Nevada Charter School Institute,* if any. Upon the request of a parent or legal guardian, the school district *or the Nevada Charter School Institute, as applicable,* shall provide the parent or legal guardian with a written copy of the summary.

~~[5. The board of trustees of each school district shall report the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

Sec. 4. NRS 385.357 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(I) The curriculum appropriate to improve achievement;

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

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

(g) Board of trustees of the school district in which the school is located ~~[.]~~ *or, if the school is a charter school, the sponsor of the charter school.*

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

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

385.358 1. The principal of each public school, including, without limitation, each charter school, shall prepare a summary of accountability information on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) The information set forth in subsection 1 of NRS 385.34692, reported only for the school;

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

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

2. The summary prepared pursuant to subsection 1 must be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau , ~~[and]~~ the school districts ~~[,]~~ *and the Nevada Charter School Institute*, prescribe a form that contains the basic information required by subsection 1. The principal of a school may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year:

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

(1) Department;

(2) Bureau; and

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

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

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

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

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

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

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

(1) Annual report of accountability prepared by:

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

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

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

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

(I) The State Board pursuant to NRS 385.34691;

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

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

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

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

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

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

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

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

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

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

Sec. 7. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public

school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before June 30 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the ~~[State Board]~~ *Nevada Charter School Institute* or by a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the ~~[State Board]~~ *Nevada Charter School Institute* or the institution *within the Nevada System of Higher Education* that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b) or (c), the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the ~~[State Board]~~ *Nevada Charter School Institute* the determination made for each charter school that is sponsored by the ~~[State Board.]~~ *Institute*.

(c) The determination made for the charter school to the institution that sponsors the charter school if a charter school is sponsored by a college or university within the Nevada System of Higher Education.

4. Except as otherwise provided in this subsection, the Department shall determine that a public school has failed to make adequate yearly progress if any group identified in paragraph (b) of subsection 1 of NRS 385.361 does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a group identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

5. In addition to the provisions of subsection 4, the Department shall determine that a public school has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the group enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in that group enrolled in the school who were required to take the examinations.

6. If the number of pupils in a particular group who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 5 based solely upon that particular group.

(b) The pupils in such a group must be included in the overall count of pupils enrolled in the school who took the examinations.

➥ The State Board shall prescribe the mechanism for determining the number of pupils that must be in a group for that group to yield statistically reliable information.

7. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

8. As used in this section:

(a) "Irregularity in testing administration" has the meaning ascribed to it in NRS 389.604.

(b) "Irregularity in testing security" has the meaning ascribed to it in NRS 389.608.

Sec. 8. NRS 385.362 is hereby amended to read as follows:

385.362 1. If a public school fails to make adequate yearly progress for 1 year:

(a) Except as otherwise provided in ~~[paragraph (b),]~~ *paragraphs (b) and (c),* the board of trustees of the school district in which the school is located shall ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. For a charter school sponsored by the school district, the board of trustees shall provide the technical assistance to the charter school in conjunction with the governing body of the charter school.

(b) *For a charter school sponsored by the Nevada Charter School Institute, the Institute shall ensure, in conjunction with the governing body of the charter school, that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.*

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall ensure, in conjunction with the governing body of the charter school,

that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a public school fails to make adequate yearly progress for 1 year, the principal of the school shall ensure that the plan to improve the achievement of pupils enrolled in the school is reviewed, revised and approved in accordance with NRS 385.357.

Sec. 9. *NRS 385.366 is hereby amended to read as follows:*

385.366 1. Based upon the information received from the Department pursuant to NRS 385.3613, the board of trustees of each school district shall, on or before July 1 of each year, issue a preliminary designation for each public school in the school district in accordance with the criteria set forth in NRS 385.3623, excluding charter schools sponsored by the ~~[State Board]~~ *Nevada Charter School Institute* or by a college or university within the Nevada System of Higher Education. The board of trustees shall make preliminary designations for all charter schools that are sponsored by the board of trustees. The Department shall make preliminary designations for all charter schools that are sponsored by the ~~[State Board]~~ *Nevada Charter School Institute* and all charter schools sponsored by a college or university within the Nevada System of Higher Education. The initial designation of a school as demonstrating need for improvement must be based upon 2 consecutive years of data and information for that school.

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. § 6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the ~~[State Board]~~ *Nevada Charter School Institute* or by a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the designation for the school on August 1.

3. On or before August 1 of each year, the Department shall provide written notice of the determinations made pursuant to NRS 385.3613 and the final designations made pursuant to this section as follows:

(a) The determinations and final designations made for all schools in this State to the:

(1) Governor;

(2) State Board;

(3) Committee; and

(4) Bureau.

(b) The determinations and final designations made for all schools within a school district to the:

(1) Superintendent of schools of the school district; and

(2) Board of trustees of the school district.

(c) The determination and final designation made for each school to the principal of the school.

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

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

385.3661 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) *For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.*

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

3. In addition to the requirements of subsection 1 or 2, as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) Except as otherwise provided in ~~[paragraph (b),]~~ *paragraphs (b) and (c),* the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) *For a charter school sponsored by the Nevada Charter School Institute, the Institute shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.*

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 .S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 11. NRS 385.3693 is hereby amended to read as follows:

385.3693 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) *For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.*

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 12. NRS 385.372 is hereby amended to read as follows:

385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to

NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) *Sponsored by the Nevada Charter School Institute, the Institute shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.*

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

~~[(3)]~~ *(4)* Except as otherwise provided in subsection 3, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of supplemental educational services for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of supplemental educational services for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the charter school as if the delay never occurred.

Sec. 13. *NRS 385.3721 is hereby amended to read as follows:*

385.3721 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

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

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) *For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.*

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

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

Sec. 14. *NRS 385.3741 is hereby amended to read as follows:*

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

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

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

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

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

(g) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the ~~[State Board,]~~ *Nevada Charter School Institute,* the support team shall make the recommendations to the ~~[State Board]~~ *Institute* and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

(h) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

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

(i) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the ~~[State Board,]~~ *Nevada Charter School Institute*, the ~~[Department]~~ *Institute* shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, ~~[that]~~ *the* institution *that sponsors the charter school* shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(k) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

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

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

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

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

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

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

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

(1) The name of the program;

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

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

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

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

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

(1) The financial resources of the school;

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

(3) The curriculum of the school;

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

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

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

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

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

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

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

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

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

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

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

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

(a) Principal of the school;

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

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

(d) Department; and

(e) Bureau.

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

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

(a) Principal of the school;

(b) Sponsor of the charter school;

(c) Department; and

(d) Bureau.

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

Sec. 16. NRS 385.3743 is hereby amended to read as follows:

385.3743 1. In addition to the requirements of NRS 385.3721, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(2) *Sponsored by the Nevada Charter School Institute, the Institute shall:*

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

~~[(3)]~~ *(4)* Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of corrective action for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

Sec. 17. *NRS 385.3744 is hereby amended to read as follows:*

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

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

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

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

2. Regardless of whether a support team recommends corrective action for a school, *the Nevada Charter School Institute may, for a charter school sponsored by the Institute,* the Department may, for a charter school

sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take one or more of the following corrective actions for the school:

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

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

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

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

Sec. 18. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years, the support team established for the school pursuant to NRS 385.3721 shall carry out the requirements of NRS 385.3741, 385.3742 and 385.3744, as applicable.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall continue a support team for the school.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance

in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) *For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.*

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[(d)]~~ *(e)* The Department shall continue a support team for the charter school.

Sec. 19. NRS 385.3746 is hereby amended to read as follows:

385.3746 1. In addition to the requirements of NRS 385.3745, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) *Sponsored by the Nevada Charter School Institute, the Institute shall:*

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

~~[(3)]~~ *(4)* Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district *, the Nevada Charter School Institute* or the Department proceeds with a plan for restructuring, the board of trustees *, the Institute* or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees *, the Institute* or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 20. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years for

failure to make adequate yearly progress, the support team for the school shall:

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

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

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

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

4. Before the board of trustees *, the Nevada Charter School Institute* or the Department proceeds with consequences or sanctions, the board of trustees *, the Nevada Charter School Institute* or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees *, the Nevada Charter School Institute* or the Department, as applicable, will proceed with consequences or sanctions for the school;

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

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

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

385.620 The Advisory Council shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 30. The Director shall:

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

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

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

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

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

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

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

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

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

5. The Director may accept gifts, grants and bequests. Any money from gifts, grants and bequests must be deposited in the Account and may be

expended in accordance with the terms and conditions of the gift or grant, or in accordance with this section.

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

386.500 ~~[For the purposes of NRS 386.500 to 386.610, inclusive, a]~~ *A* pupil is "at risk" if he has an economic or academic disadvantage such that he requires special services and assistance to enable him to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are limited English proficient, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 34. *NRS 386.508 is hereby amended to read as follows:*

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

Sec. 35. *NRS 386.515 is hereby amended to read as follows:*

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The ~~[State Board]~~ *Charter School Institute* shall sponsor charter schools whose applications have been approved by the ~~[State Board]~~ *Charter School Institute* pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the ~~[State Board]~~ *Charter School Institute* sponsors a charter school, the ~~[State Board or the Department]~~ *Charter School Institute* is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may sponsor charter schools.

~~[Section 1.]~~ *Sec. 36.* NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of [at least three teachers, as defined in subsection 4.] *:*

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

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

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

(1) Accounting;

(2) Financial services;

(3) Law; or

(4) Human resources.

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

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➥ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

~~[2.]~~ *3.* Before a committee to form a charter school may submit an application to the board of trustees of a school district, the ~~[Subcommittee on Charter Schools,]~~ ~~[the State Board]~~ *Charter School Institute* or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The application must include all information prescribed by the ~~[Department]~~ *Charter School Institute* by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive ~~[.]~~ *, and section 23 to 32, inclusive, of this act.*

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the opportunities for pupils to learn;

(2) Encouraging the use of effective methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

~~[3.]~~ *4.* The Department shall review an application to form a charter school to determine whether it is *substantially* complete ~~[.]~~ *and compliant.* If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall ~~[deny the application.]~~ *provide written notice to the applicant that the application is ineligible for consideration by the proposed sponsor.*

5. The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department ~~[denies]~~ *determines that* an application ~~[,]~~ *is not substantially complete and compliant,* the Department shall include in the written notice the ~~[reason for the denial]~~ *basis for that determination* and the deficiencies in the application. *The staff*

designated by the Department shall *provide an opportunity to the applicant to meet with the* ~~*[applicant]*~~ *staff designated by the Department to confer on the method to correct the identified deficiencies.* The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[4. As used in subsection 1, "teacher" means a person who:~~

~~(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and~~

~~(b) Has at least 2 years of experience as an employed teacher.~~

~~➥ The term does not include a person who is employed as a substitute teacher.]~~

~~[Sec. 2.]~~ *Sec. 37.* NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon ~~[approval of an application]~~ *determination* by the Department ~~[,]~~ *that an application is substantially complete and compliant,* a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located, a college or university within the Nevada System of Higher Education or ~~[directly to the Subcommittee on Charter Schools.]~~ *the* ~~*[State Board.]*~~ *Charter School Institute.* If the board of trustees of a school district, a college or a university, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, the college, the university or the ~~[Subcommittee on Charter Schools,]~~ ~~*[State Board,]*~~ *Charter School Institute,* as applicable, shall review an application to determine whether the application:

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

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

2. The Department shall assist the board of trustees of a school district, *the Charter School Institute,* the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

3. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request ~~*[to the State Board]*~~ for sponsorship by the ~~[State Board]~~ ~~[to the Subcommittee on Charter Schools created pursuant to NRS 386.507]~~ *Charter School Institute* not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

5. If the ~~[Subcommittee on Charter Schools]~~ ~~*[State Board]*~~ *Charter School Institute* receives an application pursuant to subsection 1 or 4, it shall ~~[hold]~~ *consider the application at* a meeting , ~~[to consider the application. The meeting]~~ *which* must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[Subcommittee]~~ ~~*[State Board]*~~ *Charter School Institute* shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~[Subcommittee]~~ ~~*[State Board*~~ ~~may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.]~~

~~[6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board]~~ *Charter School Institute* may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. Not more than 30 days after the meeting, the ~~[State Board]~~ *Charter School Institute* shall provide written notice of its determination to the applicant.

~~[7.]~~ *6.* If the ~~[State Board]~~ *Charter School Institute* denies *or fails to act upon* an application, ~~[it]~~ *the denial or failure to act must be based upon a finding that the applicant failed to adequately address objective criteria established by regulation of the ~~[Department or the State Board.]~~ Charter School Institute. The ~~[State Board]~~ Charter School Institute* shall include in the written notice the reasons for the denial *or the failure to act* and the deficiencies in the application. *The staff designated by the ~~[Department]~~ Charter School Institute shall provide an opportunity to the applicant to meet with the ~~[applicant]~~ staff designated by the Charter School Institute to confer on the method to correct the identified deficiencies.* The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[8.]~~ *7.* If the ~~[State Board]~~ *Charter School Institute* denies an application after it has been resubmitted pursuant to subsection ~~[7,]~~ *6,* the applicant may, not more than 30 days after the receipt of the written notice from the ~~[State~~

~~Board,~~ *Charter School Institute,* appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~[9.]~~ *8.* On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the ~~[State Board,]~~ *Charter School Institute*, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

~~[Sec. 3.]~~ *Sec. 38.* NRS 386.527 is hereby amended to read as follows:

386.527 1. If the ~~[State Board,]~~ *Charter School Institute,* the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The ~~[State Board,]~~ *Charter School Institute,* the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the ~~[State Board]~~ *Charter School Institute* approves the application:

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

(b) Neither the State of Nevada, the State Board *, the Charter School Institute* nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board *, the Charter School Institute* nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The ~~[State Board]~~ *Charter School Institute* shall adopt ~~[:~~

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

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

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection ~~[2]~~ *3* of NRS 386.530. A written charter must include all conditions of operation set forth in paragraphs (a) to (o), inclusive, of subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the ~~[State Board]~~ *Charter School Institute* or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school . ~~[if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate.]~~ If the proposed amendment complies with the provisions of ~~[this section,]~~ NRS 386.500 to 386.610, inclusive, and *sections 23 to 32, inclusive, of this act,* any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. ~~[If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.]~~ *If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.*

7. The ~~[State Board]~~ *Charter School Institute* shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➥ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the ~~[State Board]~~ *Charter School Institute* pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➥ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 39. NRS 386.530 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) There is reasonable cause to believe that revocation is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

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

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

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

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

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

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

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

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

386.540 1. ~~[The Department]~~ *Subject to the provisions of subsections 3 and 4, the Charter School Institute* shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the Department, the board of trustees of a school district, the ~~[Subcommittee on Charter Schools]~~ ~~*[State Board]*~~ *Charter School Institute* and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; ~~[and]~~

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~[the Subcommittee on Charter Schools,]~~ the ~~[State Board]~~ *Charter School Institute* and a college or university within the Nevada System of Higher Education in determining whether to approve an

application to form a charter school , ~~[or]~~ an application to renew a written charter ~~[.]~~ *or a request for amendment of a written charter; and*

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

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

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

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

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

(a) Procedures for accounting and budgeting; *and*

(b) Requirements for ~~[performance audits and]~~ financial audits of charter schools on an annual basis *.* ~~[for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and~~

~~(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.]~~

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

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

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

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

~~[Sec. 5.]~~ *Sec. 42.* NRS 386.545 is hereby amended to read as follows:

386.545 1. The Department and the board of trustees of a school district shall:

(a) Upon request, provide information to the general public concerning the formation and operation of charter schools; and

(b) Maintain a list available for public inspection that describes the location of each charter school.

2. The sponsor of a charter school shall:

(a) Provide reasonable assistance to an applicant for a charter school and to a charter school in carrying out the provisions of NRS 386.500 to 386.610, inclusive ~~[;]~~ *, and sections 23 to 32, inclusive, of this act;*

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

(c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government; and

(d) Provide timely access to the electronic data concerning the pupils enrolled in the charter school that is maintained pursuant to NRS 386.650.

3. If the board of trustees of a school district is the sponsor of a charter school, the sponsor shall:

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

(b) Provide access to school buses for use by the charter school for field trips. The school district may charge a reasonable fee for the use of the school buses.

(c) If the school district offers summer school or Internet-based credit recovery classes, allow the pupils enrolled in the charter school to participate if space is available. The school district shall apply the same fees, if any, for participation of the pupils enrolled in the charter school as it applies to pupils enrolled in the school district.

4. The Department shall provide appropriate information, education and training for charter schools and the governing bodies of charter schools concerning the applicable provisions of title 34 of NRS and other laws and regulations that affect charter schools and the governing bodies of charter schools.

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

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

386.547 The ~~[State Board]~~ *Charter School Institute* shall:

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

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

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

386.549 1. The governing body of a charter school:

(a) Must consist of:

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

(2) ~~[Two teachers,]~~ *One teacher* as defined in subsection 5, and one person who previously held a license to teach issued pursuant to chapter 391 of NRS as long as his license was held in good standing, including, without limitation, a retired teacher.

(b) Must consist of at least one parent or legal guardian of a pupil enrolled in the charter school who is not a teacher or administrator at the charter school.

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

(I) Accounting;

(II) Financial services;

(III) Law; or

(IV) Human resources.

~~[(b)]~~ ~~*[(c)]*~~ *(d)* May ~~[consist of,]~~ *include,* without limitation, parents and representatives of nonprofit organizations and businesses. Not more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

2. A person may serve on the governing body only if he submits an affidavit to the Department indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to the person by the Department.

3. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

4. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located. *Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than $80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.*

5. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

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

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required ~~[by the Department]~~ *pursuant to NRS 386.540* contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

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

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

(e) At least 75 percent of the pupils enrolled *in grade 12* in the charter school ~~[who are required to take]~~ *in the immediately preceding school year who have completed the required coursework for graduation have passed* the high school proficiency examination , ~~[have passed that examination,]~~ if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the ~~[Department]~~ *Charter School Institute* one time every 3 years. The sponsor of the charter school and the ~~[Department]~~ *Charter School Institute* shall not request a performance audit of the charter school more frequently than every 3 years without showing good cause for such a request.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

~~[Sec. 8.]~~ *Sec. 46.* NRS 386.560 is hereby amended to read as follows:

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

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use

school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

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

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

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

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

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

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

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

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

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

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

~~[Sec. 9.]~~ *Sec. 47.* NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose. *The* ~~*[State Board]*~~ *Charter School Institute shall prescribe a process which ensures that all charter schools, regardless of sponsor, have information about all sources of funding for the public schools provided through the Department, including local funds pursuant to NRS 387.1235.*

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of a school year, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school year if the sponsor provided administrative services during that school year. The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the ~~[board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors]~~ *sponsor of* the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. ~~[If the board of trustees of a school district is the sponsor of a charter school, the]~~ *The* amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed ~~[:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

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

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school,~~ ~~[1.5]~~ ~~*[1]*~~ *2* percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

~~[5.]~~ *4.* To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

~~[6.]~~ *5.* If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

~~[7.]~~ *6.* The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The ~~[State Board]~~ *Charter School Institute* may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~[8.]~~ *7.* If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body

of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 48. *NRS 386.576 is hereby amended to read as follows:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Shall adopt regulations that prescribe the:

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

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

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

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

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

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

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

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

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

Sec. 52. NRS 386.610 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Be designed to improve the ability of the Department, *the Nevada Charter School Institute, the* school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils

who are enrolled in the public schools, including, without limitation, charter schools.

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

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

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

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

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

3. The Superintendent of Public Instruction shall:

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

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

(c) Prescribe the format for the data;

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

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

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

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

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Except as otherwise provided in subsection 7, the empowerment team may submit a written request to the Department for an amendment to the empowerment plan approved pursuant to this section, including an

explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

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

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

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

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

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

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

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

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

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

(a) Governor;

(b) Department; and

(c) Legislative Committee on Education.

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

(a) Governor; and

(b) Legislative Committee on Education.

Sec. 57. *NRS 387.124 is hereby amended to read as follows:*

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the ~~[State Board]~~ *Nevada Charter School Institute* or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the

program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, he may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

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

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

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~[,]~~ *and similar information included in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347;*

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

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

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

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

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

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without

limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

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

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

(1) Repair, replace and maintain computer systems.

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

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

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

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

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

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

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

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

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

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

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

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

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the

public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

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

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

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

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

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

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

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

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

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

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

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

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of

programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

~~[Sec. 10.]~~ *Sec. 60.* NRS 392.700 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If required by specific statute.

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

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

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

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as

appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

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

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means of furthering that compelling governmental interest.

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

~~[Sec. 11.]~~ *Sec. 61.* NRS 386.507 is hereby repealed.

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

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

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

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

(a) Hire an administrative assistant and an accounting assistant; and

(b) Hire an educational consultant.

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

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

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

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

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

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

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

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

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

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

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

Sec. 69. *A charter school that is approved to operate as a State Board of Education-sponsored charter school shall be deemed to be sponsored by the Nevada Charter School Institute created pursuant to section 26 of this act commencing on July 1, 2009, and the written charter of the charter school remains in effect until the expiration of the written charter, unless the written charter is revoked by the Nevada Charter School Institute pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the Nevada Charter School Institute for renewal of its written charter pursuant to NRS 386.530. Notwithstanding the provisions of this section to the contrary, the Department of Education shall carry out the duties and responsibilities of the Nevada Charter School Institute from July 1, 2009, to September 30, 2009.*

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

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

~~[Sec. 12.]~~ *Sec. 71.* *1.* This *section and sections 2, 22 and 32 of this act become effective upon passage and approval.*

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

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

TEXT OF REPEALED SECTION

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

Senator Wiener moved the adoption of the amendment.

Conflict of interest declared by Senator Care.

Remarks by Senator Wiener.

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

Thank you, Mr. President. This amendment adds to the bill the Nevada Charter School Institute measure, which passed both the Senate Health and Education Committee and the full Senate.

The amendment also clarifies that the Department shall provide an opportunity to meet with the applicant to confer on the method to correct identified deficiencies.

It adds the term "regulation" to the subsection requiring the Department of Education to pay or reimburse a charter school for requested information if the requested information is not required to be submitted by the charter schools pursuant to a specific statute.

And, it adds two members to the governing body of a charter school. The new members must possess knowledge and expertise in one or more of the following areas: accounting, financial services, law or human resources.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 186.

Bill read second time.

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

Amendment No. 640.

"SUMMARY—Revises the definition of "public utility" and "utility." (BDR 58-189)"

"AN ACT relating to public utilities; revising the definition of "public utility" and "utility"; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill revises the definition of "public utility" and "utility" to exempt certain persons who own and operate renewable energy systems. (NRS 704.021)

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

Section 1. 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 a public utility per 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.*

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. Amendment No. 640 to Assembly Bill No. 186 adds a clarification to the language creating an exemption from the definition of "public utility." This amendment clarifies that a renewable-energy system that produces electricity remains exempt from being classified as a public utility so long as the power from each system is sold to no more than one customer of the public utility.

This language allows third-party sellers of solar PV and other renewable systems to install a system on a home or business and sell the power from that system to the property owner without the third party having to qualify as a public utility, which would involve obtaining a certificate of public convenience and necessity.

By way of clarification of a point that came up during committee discussions, this definition would not prevent a landlord or business owner from installing a renewable-energy system on the property and having the tenants still pay for their individually metered units.

The goal of Assembly Bill No. 186 is to facilitate and encourage more renewable energy systems, and we do not want landlords and their tenants from being able to participate in furthering this important public policy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 202.

Bill read second time.

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

Amendment No. 812.

"SUMMARY—Makes various changes concerning the State Board of Cosmetology. (BDR 54-681)"

"AN ACT relating to cosmetology; revising various definitions; revising provisions relating to the qualifications for examination as an instructor of aestheticians, an instructor in nail technology, a nail technologist or an aesthetician; revising provisions relating to cosmetologists' apprentices; increasing the required instruction hours for an aesthetician; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 3 of this bill revise the definitions of "aesthetician" and "cosmetologist" to reference sugaring. ~~[and threading.]~~ (NRS 644.0205, 644.023) Section 5 of this bill changes the term "manicurist" to "nail technologist," and this bill carries out this change for variations of the term "manicurist" that appear in chapter 644 of NRS. (NRS 644.029)

Section 11 of this bill revises the requirements for admission to examination as an instructor of aestheticians, effective July 1, 2010. (NRS 644.1955) Section 13 of this bill revises the requirements for admission to examination as an instructor in nail technology, effective July 1, 2010. (NRS 644.197) Section 15 of this bill revises the requirements for admission to examination for a license as a nail technologist, effective July 1, 2010. (NRS 644.205) Section 16 of this bill revises the requirements for admission to examination for a license as an aesthetician, effective July 1, 2010. (NRS 644.207)

Existing law sets forth various requirements that must be met before the State Board of Cosmetology may issue to a person a certificate of registration as a cosmetologist's apprentice. (NRS 644.217) Section 17 of this bill: (1) eliminates the requirement that such a person be a resident of a county whose population is less than 50,000; (2) requires the training of the person as a cosmetologist's apprentice to be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology; and (3) authorizes the Board to waive, for good cause shown, various requirements for an applicant for a certificate of registration as a cosmetologist's apprentice.

Existing law sets forth the requirements which must be met before the Board renews a license issued pursuant to chapter 644 of NRS. (NRS 644.325) Section 24.5 of this bill requires that before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control.

Section 29 of this bill increases from 120 to 150 the number of hours of instruction a student enrolled as an aesthetician must receive before commencing work on members of the public. (NRS 644.408)

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

Section 1. NRS 644.0205 is hereby amended to read as follows:

644.0205 *1.* "Aesthetician" means any person who engages in the practices of:

~~[1.]~~ *(a)* Beautifying, massaging, cleansing or stimulating the skin of the human body ~~[, except the scalp,]~~ by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

~~[2.]~~ *(b)* Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body *;* ~~[except the scalp;]~~ and

~~[3.]~~ *(c)* Removing superfluous hair from the body of any person by the use of depilatories, waxing , ~~[or]~~ tweezers ~~[,]~~ *or sugaring* , ~~*[or threading,]*~~

➥ but does not include the branches of cosmetology of a cosmetologist, hair designer, electrologist or ~~[manicurist.]~~ *nail technologist.*

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 2. NRS 644.0225 is hereby amended to read as follows:

644.0225 "Cosmetological establishment" means any premises, mobile unit, building or part of a building where cosmetology is practiced, other than a licensed barbershop in which one or more licensed ~~[manicurists]~~ *nail technologists* practice.

Sec. 3. NRS 644.023 is hereby amended to read as follows:

644.023 *1.* "Cosmetologist" means a person who engages in the practices of:

~~[1.]~~ *(a)* Cleansing, stimulating or massaging the scalp or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

~~[2.]~~ *(b)* Cutting, trimming or shaping the hair.

~~[3.]~~ *(c)* Arranging, dressing, curling, waving, cleansing, singeing, bleaching, tinting, coloring or straightening the hair of any person with the hands, mechanical or electrical apparatus or appliances, or by other means, or similar work incident to or necessary for the proper carrying on of the practice or occupation provided by the terms of this chapter.

~~[4.]~~ *(d)* Removing superfluous hair from the surface of the body of any person by the use of electrolysis where the growth is a blemish, or by the use of depilatories, waxing , ~~[or]~~ tweezers ~~[,]~~ *or sugaring* , ~~*[or threading,]*~~ except for the permanent removal of hair with needles.

~~[5.]~~ *(e)* Manicuring the nails of any person.

~~[6.]~~ *(f)* Beautifying, massaging, stimulating or cleansing the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or any device, electrical or otherwise, for the care of the skin.

~~[7.]~~ *(g)* Giving facials or skin care or applying cosmetics or eyelashes to any person.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 4. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, demonstrator of cosmetics and ~~[~~manicurist.~~]~~ *nail technologist.*

Sec. 5. NRS 644.029 is hereby amended to read as follows:

644.029 ~~["Manicurist"]~~ *"Nail technologist"* means any person who, for compensation or by demonstration, engages in the practices of:

1. Care of another's fingernails or toenails.
2. Beautification of another's nails.
3. Extension of another's nails.
4. Massaging of another's hands, forearms, feet or lower legs.

Sec. 6. NRS 644.030 is hereby amended to read as follows:

644.030 1. The State Board of Cosmetology consisting of seven members appointed by the Governor is hereby created.

2. The Board must consist of four cosmetologists, one ~~[~~manicurist,~~]~~ *nail technologist,* one aesthetician and one member representing customers of cosmetology.

Sec. 7. NRS 644.040 is hereby amended to read as follows:

644.040 1. No person is eligible for appointment as a member of the Board:

(a) Who is not licensed as a ~~[~~manicurist,~~]~~ *nail technologist,* electrologist, aesthetician or cosmetologist under the provisions of this chapter.

(b) Who is not, at the time of appointment, actually engaged in the practice of his respective branch of cosmetology.

(c) Who is not at least 25 years of age.

(d) Who has not been a resident of this State for at least 3 years immediately before his appointment.

2. The requirements of paragraphs (a) and (b) of subsection 1 do not apply to a person appointed to represent customers of cosmetology.

3. Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving as a member of the Board.

Sec. 8. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every ~~[~~manicurist,~~]~~ *nail technologist,* electrologist, aesthetician, hair designer, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 9. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, aesthetician or ~~[manicurist]~~ *nail technologist* for 1 year and submits written verification of his experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than $40 and not more than $75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year ~~[from]~~ *after* the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 10. NRS 644.195 is hereby amended to read as follows:

644.195 1. Each instructor must:

(a) Be licensed as a cosmetologist pursuant to this chapter.

(b) Have successfully completed the 12th grade in school or its equivalent.

(c) Have 1 year of experience as a cosmetologist or as a licensed student instructor.

(d) Have completed 1,000 hours of training as an instructor or 500 hours of training as a *licensed* provisional instructor in a school of cosmetology.

(e) Except as otherwise provided in subsection 2, take one or more courses in advanced techniques for teaching or training, approved by the Board, whose combined duration is at least 30 hours during each 2-year period.

2. The provisions of paragraph (e) of subsection 1 do not apply to an instructor who is initially licensed not more than 6 months before the renewal date of the license. An instructor who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in paragraph (e) whose combined duration is at least 15 hours during each 2-year period.

3. Each instructor shall pay an initial fee for a license of not less than $60 and not more than $90.

Sec. 11. NRS 644.1955 is hereby amended to read as follows:

644.1955 1. The Board shall admit to examination for a license as an instructor of aestheticians any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of ~~[800]~~ *700* hours of training as an instructor or ~~[400]~~ *500* hours of training as a *licensed* provisional instructor in a licensed school of cosmetology;

(e) Is licensed as an aesthetician pursuant to this chapter; and

(f) Has practiced as a full-time licensed aesthetician or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor of aestheticians shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor of aestheticians who is initially licensed not more than 6 months before the renewal date of the license. An instructor of aestheticians who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 12. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in ~~[manicuring]~~ *nail technology* any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or 250 hours of training as a provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a ~~[manicurist]~~ *nail technologist* pursuant to this chapter; and

(f) Has practiced as a full-time licensed ~~[manicurist]~~ *nail technologist* or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in ~~[manicuring]~~ *nail technology* shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in ~~[manicuring]~~ *nail technology* who is initially licensed not more than 6 months before the renewal date of the license. An instructor in ~~[manicuring]~~ *nail technology* who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 13. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in nail technology any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or ~~[250 hours of training]~~ as a *licensed* provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a nail technologist pursuant to this chapter; and

(f) Has practiced as a full-time licensed nail technologist or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in nail technology shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in nail technology who is initially licensed not more than 6 months before the renewal date of the license. An instructor in nail technology who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 14. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a ~~[manicurist]~~ *nail technologist* any person who has made application to the Board in proper form, paid the fee ~~[,]~~ and who , before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. Has successfully completed the 10th grade in school or its equivalent.

4. Has had any one of the following:

(a) Practical training of at least 500 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed ~~[manicurist]~~ *nail technologist* for 1 year outside the State of Nevada.

Sec. 15. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee ~~[,]~~ and who , before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. Has successfully completed the 10th grade in school or its equivalent.

4. Has had any one of the following:

(a) Practical training of at least ~~[500]~~ *600* hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 16. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;
3. Has successfully completed the 10th grade in school or its equivalent; and
4. Has received a minimum of ~~[600]~~ *900* hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 17. NRS 644.217 is hereby amended to read as follows:

644.217 1. The Board may issue a certificate of registration as a cosmetologist's apprentice to a person if:

(a) The person is ~~[a resident of a county whose population is less than 50,000;~~

~~(b) The person is]~~ required to travel more than 60 miles from his place of residence to attend a licensed school of cosmetology; and

~~[(c)]~~ *(b)* The training of the person as a cosmetologist's apprentice will be conducted at a licensed cosmetological establishment that is located ~~[in such a county.]~~ *60 miles or more from a licensed school of cosmetology.*

2. *The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.*

3. An applicant for a certificate of registration as a cosmetologist's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of $100 and must include:

(a) A statement signed by the licensed cosmetologist who will be supervising and training the cosmetologist's apprentice which states that the licensed cosmetologist has been licensed by the Board to practice cosmetology in this State for not less than 3 years immediately preceding the date of the application and that his license has been in good standing during that period;

(b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a cosmetologist's apprentice at the cosmetological establishment; and

(c) Such other information as the Board may require by regulation.

~~[3.]~~ *4.* A certificate of registration as a cosmetologist's apprentice is valid for 2 years after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 18. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than $75 and not more than $200.

(b) For examination as an electrologist, not less than $75 and not more than $200.

(c) For examination as a hair designer, not less than $75 and not more than $200.

(d) For examination as a ~~[manicurist,]~~ *nail technologist,* not less than $75 and not more than $200.

(e) For examination as an aesthetician, not less than $75 and not more than $200.

(f) For examination as an instructor of aestheticians, hair designers, cosmetology or ~~[manicuring,]~~ *nail technology,* not less than $75 and not more than $200.

➥ The fee for each reexamination is not less than $75 and not more than $200.

2. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is $75.

3. Each applicant referred to in subsections 1 and 2 shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 19. NRS 644.240 is hereby amended to read as follows:

644.240 Examinations for licensure as a cosmetologist may include:

1. Practical demonstrations in shampooing the hair, hairdressing, styling of hair, finger waving, coloring of hair, ~~[manicuring,]~~ *nail technology,* cosmetics, thermal curling, marcelling, facial massage, massage of the scalp with the hands, and cutting, trimming or shaping hair;

2. Written or oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity as applicable to the practice of a cosmetologist; and

(c) The laws of Nevada and the regulations of the Board relating to the practice of cosmetology; and

3. Such other demonstrations and tests as the Board may require.

Sec. 20. NRS 644.245 is hereby amended to read as follows:

644.245 The examination for a license as a ~~[manicurist]~~ *nail technologist* may include:

1. Practical demonstrations in manicuring, pedicuring or the wrapping or extension of nails;

2. Written and oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity in caring for the nails; and

(c) The laws of Nevada and regulations of the Board relating to cosmetology; and

3. Such other demonstrations and tests as the Board requires.

Sec. 21. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ~~[manicurist,]~~ *nail technologist,* demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 22. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed ~~[manicurist,]~~ *nail technologist,* electrologist, aesthetician, hair designer, demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his place of business, as designated in the records of the Board, notify the Secretary of the Board of his new place of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 23. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ~~[manicurist,]~~ *nail technologist,* demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses issued for less than 1 1/2 years.

Sec. 24. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For ~~[manicurists,]~~ *nail technologists,* electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) For instructors, not less than $60 and not more than $100.

(c) For cosmetological establishments, not less than $100 and not more than $200.

(d) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, ~~[manicurist,]~~ *nail technologist*, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

Sec. 24.5. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) For instructors, not less than $60 and not more than $100.

(c) For cosmetological establishments, not less than $100 and not more than $200.

(d) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 644.330 is hereby amended to read as follows:

644.330 1. A ~~[manicurist,]~~ *nail technologist,* electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any ~~[manicurist,]~~ *nail technologist,* electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No ~~[manicurist,]~~ *nail technologist,* electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 27. NRS 644.360 is hereby amended to read as follows:

644.360 1. Every holder of a license issued by the Board to operate a cosmetological establishment shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

2. Except as otherwise provided in this section, the operator of a cosmetological establishment may lease space to or employ only licensed ~~[manicurists,]~~ *nail technologists,* electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists at his establishment to provide cosmetological services. This subsection does not prohibit an operator of a cosmetological establishment from:

(a) Leasing space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection 3. Each such professional remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

3. The operator of a cosmetological establishment may lease space at his cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his business or profession and remains

subject to the laws and regulations of this State applicable to his business or profession.

4. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(b) "Space" includes, without limitation, a separate room in the cosmetological establishment.

Sec. 28. NRS 644.370 is hereby amended to read as follows:

644.370 A cosmetological establishment must, at all times, be under the immediate supervision of a licensed ~~[manicurist,]~~ *nail technologist,* electrologist, aesthetician, hair designer or cosmetologist.

Sec. 29. NRS 644.408 is hereby amended to read as follows:

644.408 A student must receive the following minimum amount of instruction in the classroom before commencing work on members of the public:

1. A student enrolled as a cosmetologist must receive at least 300 hours.

2. A student enrolled as a hair designer must receive at least 300 hours.

3. A student enrolled as a ~~[manicurist]~~ *nail technologist* must receive at least 100 hours.

4. A student enrolled as an electrologist's apprentice must receive at least 150 hours.

5. A student enrolled as an aesthetician must receive at least ~~[120]~~ *150* hours.

Sec. 30. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, electrologist, instructor, ~~[manicurist,]~~ *nail technologist,* demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed $2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 31. 1. This section and sections 1 to 9, inclusive, 12, 14, 17 to 24, inclusive, and 26 to 30, inclusive, of this act become effective upon passage and approval.

2. Sections 10, 11, 13, 15 and 16 of this act become effective on July 1, 2010.

3. Section 24.5 of this act becomes effective on January 1, 2011.

Senator Carlton moved the adoption of the amendment.

Conflict of interest declared by Senator Hardy.

Remarks by Senator Carlton.

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

Thank you, Mr. President. This amendment removes the term "threading" from the bil, and for the members of the body, threading is a process by which you remove hair with intertwined cotton threads.

The amendment leaves the provision in the bill where they will do continuing education for infection control, but it removes continuing education for professional development.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 205.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 821.

"SUMMARY—Makes various changes relating to the administration of property taxes. (BDR 32-703)"

"AN ACT relating to the taxation of property; revising the provisions governing the calculation of certain partial abatements of taxes and the taxable value of improvements made on land, the designation of taxes on personal property as uncollectible and the taxation of open-space land;

clarifying the provisions governing the notification, appeal and revision of the valuation of property on the unsecured tax roll; revising the requirements for certain segregation and statistical reports and projections of assessed value; delaying the required filing date for petitions for the review of certain determinations regarding the applicability of a partial abatement; postponing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 8 of this bill require a county assessor to make certain projections of assessed valuation of property for an upcoming fiscal year that had been made under existing law by the Department of Taxation. (NRS 361.390) Additionally, section 8 revises the dates when a county assessor must file with the Department certain statistical and segregation reports showing assessed values of property.

Existing law provides a partial abatement of the property taxes levied on property for which an assessed valuation has previously been established, a remainder parcel of real property, certain single-family residences and certain residential rental dwellings. (NRS 361.4722, 361.4723, 361.4724) Sections 2 and 9-11 of this bill revise the formula for calculating the partial abatement in such a manner as to lower the cap on the tax liability of an owner of real property when the taxable value of the property is reduced as a result of the partial or complete destruction or removal of an improvement to the property or the correction of an overassessment of an improvement because of a factual error. Section 13 of this bill changes the date by which a petition must be filed for the review of a county assessor's determination regarding the applicability of a partial abatement from January 15 to the last day of the fiscal year for which the determination is effective. (NRS 361.4734)

Section 3 of this bill allows a county assessor, when determining the cost to replace an improvement on land for the purpose of calculating taxable value, to use the final plans, drawings and other representations prepared by the architect or builder of the improvement to establish its size or quantity. (NRS 361.227)

Section 4 of this bill provides statutory clarification that a county assessor must provide notice of the assessed valuation of property on the secured tax roll on or before December 18 of the fiscal year in which the property is appraised or reappraised, but the individual tax bills provided to the owners of personal property billed on the unsecured tax roll serve as notification of the assessed valuation of that property. (NRS 361.300)

Under existing law, a taxpayer desiring to appeal the assessment of property placed on the unsecured tax roll must, if the property was assessed after December 15 and on or before April 30, file that appeal with the State Board of Equalization on or before May 15. (NRS 361.360) Sections 5-7 of this bill provide statutory clarification that a taxpayer desiring to appeal the

assessment of property on the unsecured tax roll which was assessed at any other time may file that appeal with the county board of equalization on or before January 15. (NRS 361.345, 361.356, 361.357)

Existing law authorizes a county assessor to seize the personal property of a person who neglects or refuses to pay property taxes, and requires the county assessor to post a notice of the seizure within the immediate vicinity of the seized property before selling the property at public auction. (NRS 361.535) Section 14 of this bill makes it a gross misdemeanor for a person to remove, deface, cover or conceal that notice, or to move or sell, attempt to move or sell or assist another person to move or sell the seized property, before the delinquent taxes are paid.

Existing law allows a county tax receiver to petition the board of county commissioners to designate certain taxes on personal property as uncollectible, thereby relieving the tax receiver from liability for the failure to collect those taxes. (NRS 361.5607) Section 15 of this bill revises the criteria under which such a petition is authorized to require in every case that all appropriate collection procedures were followed without success, and that either the taxes have been delinquent for at least 3 years or the amount of the taxes is $25 or less.

Existing law requires the assessment of a golf course as open-space property and the payment of deferred property taxes when any open-space property is converted to a higher use. (NRS 361A.170, 361A.280) ~~[Section]~~ *Sections* 18-*20* of this bill *provide for the designation and classification of certain land regarding which the owner has granted and has outstanding a lease of surface water rights as open-space real property for the purposes of taxation. Section 22 of this bill* specifies criteria for determining when a golf course becomes disqualified for open-space use assessment. (NRS 361A.230) Sections 16 and ~~[20]~~ *25* of this bill clarify the amount of deferred property taxes due upon the conversion of any *agricultural or* open-space property to a higher use. *Section 29 of this bill repeals a related section which provided the manner for determining the taxable value when agricultural land is converted to a higher use. (NRS 361A.155)*

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) Sections ~~[22, 23 and 24]~~ *27, 28 and 29* of this bill provide for the continuation of this funding during the next biennium by postponing its prospective expiration until June 30, 2011.

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

Section 1. NRS 360.690 is hereby amended to read as follows:

360.690 1. Except as otherwise provided in NRS 360.730, the Executive Director shall estimate monthly the amount each local

government, special district and enterprise district will receive from the Account pursuant to the provisions of this section.

2. The Executive Director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to NRS 360.680 for each local government, special district and enterprise district by 12, and the State Treasurer shall, except as otherwise provided in subsections 3 to 8, inclusive, remit monthly that amount to each local government, special district and enterprise district.

3. If, after making the allocation to each enterprise district for the month, the Executive Director determines there is not sufficient money available in the county's subaccount in the Account to allocate to each local government and special district the base monthly allocation determined pursuant to subsection 2, he shall prorate the money in the county's subaccount and allocate to each local government and special district an amount equal to its proportionate percentage of the total amount of the base monthly allocations determined pursuant to subsection 2 for all local governments and special districts within the county. The State Treasurer shall remit that amount to the local government or special district.

4. Except as otherwise provided in subsections 5 to 8, inclusive, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

5. Except as otherwise provided in subsection 6 or 7, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district and that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least $50,000,000 or that the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure or that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least $50,000,000 and the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation

attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

6. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in each of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which

the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

7. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in any of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a positive figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

8. The Executive Director shall not allocate any amount to a local government or special district pursuant to subsection 4, 5, 6 or 7 unless the

amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2 and the Executive Director determines there is money remaining in the county's subaccount in the Account after the distribution for the month has been made, he shall:

(a) Determine the amount by which the base monthly allocations determined pursuant to subsection 2 for each local government and special district in the county for the preceding months of the fiscal year in which the allocation is to be made exceeds the amounts actually received by the local governments and special districts in the county for the same period; and

(b) Compare the amount determined pursuant to paragraph (a) to the amount of money remaining in the county's subaccount in the Account to determine which amount is greater.

➥ If the Executive Director determines that the amount determined pursuant to paragraph (a) is greater, he shall allocate the money remaining in the county's subaccount in the Account pursuant to the provisions of subsection 3. If the Executive Director determines that the amount of money remaining in the county's subaccount in the Account is greater, he shall first allocate the money necessary for each local government and special district to receive the base monthly allocation determined pursuant to subsection 2 and the State Treasurer shall remit that money so allocated. The Executive Director shall allocate any additional money in the county's subaccount in the Account pursuant to the provisions of subsection 4, 5, 6 or 7, as appropriate.

9. The percentage changes in population calculated pursuant to subsections 4 to 7, inclusive, must:

(a) Except as otherwise provided in paragraph (c), if the Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the Governor pursuant to NRS 360.285, be an estimate of the change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

(b) If a new method of determining population is established pursuant to NRS 360.283, be adjusted in a manner that will result in the percentage change being based on population determined pursuant to the new method for both the fiscal year in which the allocation is made and the fiscal year immediately preceding the year in which the allocation is made.

(c) If a local government files a formal appeal with the Bureau of the Census concerning the population total of the local government issued by the Bureau of the Census, be calculated using the population total certified by the Governor pursuant to NRS 360.285 until the appeal is resolved. If additional

money is allocated to the local government because the population total certified by the Governor is greater than the population total issued by the Bureau of the Census, the State Treasurer shall deposit that additional money in a separate interest-bearing account. Upon resolution of the appeal, if the population total finally determined pursuant to the appeal is:

(1) Equal to or less than the population total initially issued by the Bureau of the Census, the State Treasurer shall transfer the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, to the Local Government Tax Distribution Account for allocation among the local governments in the county pursuant to subsection 4, 5, 6 or 7, as appropriate.

(2) Greater than the population total initially issued by the Bureau of the Census, the Executive Director shall calculate the amount that would have been allocated to the local government pursuant to subsection 4, 5, 6 or 7, as appropriate, if the population total finally determined pursuant to the appeal had been used and the State Treasurer shall remit to the local government an amount equal to the difference between the amount actually distributed and the amount calculated pursuant to this subparagraph or the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, whichever is less.

10. On or before February 15 of each year, the Executive Director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the Account for that fiscal year.

11. On or before March 15 of each year, the Executive Director shall:

(a) Make an estimate of the receipts from each tax included in the Account on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles, including an estimate for each county of the receipts from each tax included in the Account; and

(b) Provide to each local government, special district and enterprise district an estimate of the amount that local government, special district or enterprise district would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

12. A local government, special district or enterprise district may use the estimate provided by the Executive Director pursuant to subsection 11 in the preparation of its budget.

Sec. 2. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

If the taxable value of an improvement to real property is reduced as a result of:

1. The partial or complete destruction or removal of the improvement; or

2. The correction pursuant to NRS 361.768 of an overassessment of the improvement because of a factual error,

➥ *then for the purpose of calculating the amount of any partial abatement to which the owner of the real property is entitled pursuant to NRS 361.4722,*

361.4723 or 361.4724 for the initial fiscal year for which that reduction in taxable value applies, the amount determined for the immediately preceding fiscal year pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724, as applicable, must be reduced by the same percentage as the taxable value of the real property is reduced for that initial fiscal year as a result of the partial or complete destruction or removal of the improvement to the property or the correction of the overassessment of the improvement to the property.

Sec. 3. NRS 361.227 is hereby amended to read as follows:

361.227 1. Any person determining the taxable value of real property shall appraise:

(a) The full cash value of:

(1) Vacant land by considering the uses to which it may lawfully be put, any legal or physical restrictions upon those uses, the character of the terrain, and the uses of other land in the vicinity.

(2) Improved land consistently with the use to which the improvements are being put.

(b) Any improvements made on the land by subtracting from the cost of replacement of the improvements all applicable depreciation and obsolescence. Depreciation of an improvement made on real property must be calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement, up to a maximum of 50 years.

2. The unit of appraisal must be a single parcel unless:

(a) The location of the improvements causes two or more parcels to function as a single parcel;

(b) The parcel is one of a group of contiguous parcels which qualifies for valuation as a subdivision pursuant to the regulations of the Nevada Tax Commission; or

(c) In the professional judgment of the person determining the taxable value, the parcel is one of a group of parcels which should be valued as a collective unit.

3. The taxable value of a leasehold interest, possessory interest, beneficial interest or beneficial use for the purpose of NRS 361.157 or 361.159 must be determined in the same manner as the taxable value of the property would otherwise be determined if the lessee or user of the property was the owner of the property and it was not exempt from taxation, except that the taxable value so determined must be reduced by a percentage of the taxable value that is equal to the:

(a) Percentage of the property that is not actually leased by the lessee or used by the user during the fiscal year; and

(b) Percentage of time that the property is not actually leased by the lessee or used by the user during the fiscal year, which must be determined in accordance with NRS 361.2275.

4. The taxable value of other taxable personal property, except a mobile or manufactured home, must be determined by subtracting from the cost of replacement of the property all applicable depreciation and obsolescence. Depreciation of a billboard must be calculated at 1.5 percent of the cost of replacement for each year after the year of acquisition of the billboard, up to a maximum of 50 years.

5. The computed taxable value of any property must not exceed its full cash value. Each person determining the taxable value of property shall reduce it if necessary to comply with this requirement. A person determining whether taxable value exceeds that full cash value or whether obsolescence is a factor in valuation may consider:

(a) Comparative sales, based on prices actually paid in market transactions.

(b) A summation of the estimated full cash value of the land and contributory value of the improvements.

(c) Capitalization of the fair economic income expectancy or fair economic rent, or an analysis of the discounted cash flow.

➥ A county assessor is required to make the reduction prescribed in this subsection if the owner calls to his attention the facts warranting it, if he discovers those facts during physical reappraisal of the property or if he is otherwise aware of those facts.

6. The Nevada Tax Commission shall, by regulation, establish:

(a) Standards for determining the cost of replacement of improvements of various kinds.

(b) Standards for determining the cost of replacement of personal property of various kinds. The standards must include a separate index of factors for application to the acquisition cost of a billboard to determine its replacement cost.

(c) Schedules of depreciation for personal property based on its estimated life.

(d) Criteria for the valuation of two or more parcels as a subdivision.

7. In determining *, for the purpose of computing taxable value,* the cost of replacement of *:*

(a) Any personal property *,* ~~[for the purpose of computing taxable value,]~~ the cost of all improvements of the personal property, including any additions to or renovations of the personal property, but excluding routine maintenance and repairs, must be added to the cost of acquisition of the personal property.

(b) An improvement made on land, a county assessor may use any final representations of the improvement prepared by the architect or builder of the improvement, including, without limitation, any final building plans, drawings, sketches and surveys, and any specifications included in such representations, as a basis for establishing any relevant measurements of size or quantity.

8. The county assessor shall, upon the request of the owner, furnish within 15 days to the owner a copy of the most recent appraisal of the

property, including, without limitation, copies of any sales data, materials presented on appeal to the county board of equalization or State Board of Equalization and other materials used to determine or defend the taxable value of the property.

9. The provisions of this section do not apply to property which is assessed pursuant to NRS 361.320.

Sec. 4. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county.

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow him a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. Except as otherwise provided in subsection 4, each board of county commissioners shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor:

(a) To cause such list and valuations to be printed and delivered by the county assessor or mailed by him on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; or

(b) To cause such list and valuations to be published once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county.

➥ In addition to complying with paragraph (a) or (b), the list and valuations may also be posted in a public area of the public libraries and branch libraries located in the county, in a public area of the county courthouse and the county office building in which the county assessor's office is located, and on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.

4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection 3, to taxpayers whose property is assessed at $1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever *:*

(a) Any property *on the secured tax roll* is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal.

(b) Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the assessed valuation of the property as determined from the appraisal or reappraisal.

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

Sec. 5. NRS 361.345 is hereby amended to read as follows:

361.345 1. Except as otherwise provided in subsection 2, the county board of equalization may ~~[determine]~~ *:*

(a) Determine the valuation of any *real or personal* property *placed on:*

(1) The secured tax roll which was assessed by the county assessor ~~[, and may change]~~ *; or*

(2) The unsecured tax roll which was assessed by the county assessor on or after May 1 and on or before December 15; and

(b) Change and correct any valuation found to be incorrect either by adding thereto or by deducting therefrom such sum as is necessary to make it conform to the taxable value of the property assessed, whether that valuation was fixed by the owner or the county assessor. The county board of equalization may not reduce the assessment of the county assessor unless it is established by a preponderance of the evidence that the valuation established by the county assessor exceeds the full cash value of the property or is inequitable. A change so made is effective only for the fiscal year for which the assessment was made. The county assessor shall each year review all

such changes made for the previous fiscal year and maintain or remove each change as circumstances warrant.

2. If a person complaining of the assessment of his property:

(a) Has refused or, without good cause, has neglected to give the county assessor his list under oath, as required by NRS 361.265; or

(b) Has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination required by NRS 361.260,

➥ the county assessor shall make a reasonable estimate of the property and assess it accordingly. No reduction may be made by the county board of equalization from the assessment of the county assessor made pursuant to this subsection.

3. If the county board of equalization finds it necessary to add to the assessed valuation of any property on the assessment roll, it shall direct the clerk to give notice to the person so interested by registered or certified letter, or by personal service, naming the day when it will act on the matter and allowing a reasonable time for the interested person to appear.

Sec. 6. NRS 361.356 is hereby amended to read as follows:

361.356 1. An owner of *any real or personal* property *placed on:*

(a) The secured tax roll who believes that his property was assessed at a higher value than another property whose use is identical and whose location is comparable may appeal the assessment, on or before January 15 of the fiscal year in which the assessment was made, to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

(b) The unsecured tax roll which was assessed on or after May 1 and on or before December 15 who believes that his property was assessed at a higher value than another property whose use is identical and whose location is comparable may appeal the assessment, on or before the following January 15, to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.

3. If the board finds that an inequity exists in the assessment of the value of the land or the value of the improvements, or both, the board may add to or deduct from the value of the land or the value of the improvements, or both, either of the appellant's property or of the property to which it is compared, to equalize the assessment.

4. In the case of residential property, the appellant shall cite other property within the same subdivision if possible.

Sec. 7. NRS 361.357 is hereby amended to read as follows:

361.357 1. The owner of any *real or personal* property *placed on:*

(a) The secured tax roll who believes that the full cash value of his property is less than the taxable value computed for the property in the current assessment year ~~[,]~~ may, not later than January 15 of the fiscal year in which the assessment was made, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

(b) The unsecured tax roll which was assessed on or after May 1 and on or before December 15 who believes that the full cash value of his property is less than the taxable value computed for the property in the current assessment year may, not later than the following January 15, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.

3. If the county board of equalization finds that the full cash value of the property on January 1 immediately preceding the fiscal year for which the taxes are levied is less than the taxable value computed for the property, the board shall correct the land value or fix a percentage of obsolescence to be deducted from the otherwise computed taxable value of the improvements, or both, to make the taxable value of the property correspond as closely as possible to its full cash value.

4. No appeal under this section may result in an increase in the taxable value of the property.

Sec. 8. NRS 361.390 is hereby amended to read as follows:

361.390 Each county assessor shall:

1. File with or cause to be filed with the Secretary of the State Board of Equalization, on or before March 10 of each year, the tax roll, or a true copy thereof, of his county for the current year as corrected by the county board of equalization.

2. Prepare and file with the Department on or before January 31, ~~[and again on or before]~~ March 5 *and October 31* of each year, a segregation report showing the assessed values for each taxing entity within the county on a form prescribed by the Department. The assessor shall make ~~[any]~~ projections ~~[required]~~ *of assessed value* for the current fiscal year ~~[.]~~ *and the upcoming fiscal year regarding real and personal property for which the taxable value is determined by the assessor.* The Department shall make any projections required for the upcoming fiscal year ~~[.]~~ *regarding the net proceeds of minerals and any property for which the taxable value is determined by the Nevada Tax Commission.*

3. Prepare and file with the Department on or before ~~[July 31 for the secured roll and on or before]~~ May 5 for the unsecured roll, *on or before August 10 for the secured roll, and on or before October 31 for the unsecured roll and the secured roll,* a statistical report showing values for all categories of property on a form prescribed by the Department.

Sec. 9. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, *and section 2 of this act,* the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years;

(II) Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; or

(III) Zero; or

(2) Eight percent,

➥ whichever is less.

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, *and section 2 of this act,* the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that

property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years;

(II) Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; or

(III) Zero; or

(2) Eight percent,

➥ whichever is less.

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a

fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section, "remainder parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

Sec. 10. NRS 361.4723 is hereby amended to read as follows:

361.4723 The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution. The Legislature therefore directs a partial abatement of taxes for such homeowners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, *and section 2 of this act,* the owner of a single-family residence which is the primary residence of the owner is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to any property for which:

(a) No assessed valuation was separately established for the immediately preceding fiscal year; or

(b) The provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section, including, without limitation, regulations providing a methodology for applying the partial abatement provided pursuant to subsection 1 to a parcel of real property of which only a portion qualifies as a single-family residence which is the primary residence of the owner and the remainder is used in another manner.

5. The owner of a single-family residence does not become ineligible for the partial abatement provided pursuant to subsection 1 as a result of:

(a) The operation of a home business out of a portion of that single-family residence; or

(b) The manner in which title is held by the owner if the owner occupies the residence, including, without limitation, if the owner has placed the title in a trust for purposes of estate planning.

6. For the purposes of this section:

(a) "Primary residence of the owner" means a residence which:

(1) Is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State; and

(2) Is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.

(b) "Single-family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(c) "Unit of personal property" includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

➥ if classified as personal property for the purposes of this chapter.

(d) "Unit of real property" includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter.

Sec. 11. NRS 361.4724 is hereby amended to read as follows:

361.4724 The Legislature hereby finds and declares that many Nevadans who cannot afford to own their own homes would be adversely affected by large unanticipated increases in property taxes, as those tax increases are passed down to renters in the form of rent increases and therefore the benefits of a charitable exemption pursuant to subsection 8 of Section 1 of Article 10 of the Nevada Constitution should be afforded to those Nevadans through an abatement granted to the owners of residential rental dwellings who charge rent that does not exceed affordable housing standards for low-income housing. The Legislature therefore directs a partial abatement of taxes for such owners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, *and section 2 of this act,* if the amount of rent collected from each of the tenants of a residential dwelling does not exceed the fair market rent for the county in which the dwelling is located, as most recently published by the United States Department of Housing and Urban Development, the owner of the dwelling is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to:

(a) Any hotels, motels or other forms of transient lodging;

(b) Any property for which no assessed valuation was separately established for the immediately preceding fiscal year; and

(c) Any property for which the provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the

amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section.

Sec. 12. NRS 361.4732 is hereby amended to read as follows:

361.4732 Except as otherwise required to carry out *the provisions of section 2 of this act and* any regulations adopted pursuant to NRS 361.4733 , and notwithstanding any other provision of NRS 361.471 to 361.4735, inclusive, *and section 2 of this act* to the contrary, after a parcel or other taxable unit of real property is annexed to a taxing entity:

1. The amount otherwise required to be determined pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724 with respect to that property for the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the amount of ad valorem taxes which would have been levied on the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier, based upon the tax rates that would have applied to the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier and without regard to any exemptions from taxation that applied to the property for the immediately preceding fiscal year but do not apply to the property for the current fiscal year; and

2. For the purposes of any other calculations required pursuant to the provisions of NRS 361.471 to 361.4735, inclusive, *and section 2 of this act,* the combined overlapping tax rate applicable to that property for the fiscal year immediately preceding the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the combined overlapping tax rate that would have applied to the property for that year if the annexation had occurred 1 year earlier.

Sec. 13. NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722, 361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the county assessor of the

county in which the property is located. The petition must be submitted on or before ~~[January 15]~~ *June 30* of the fiscal year for which the determination is effective. The county assessor shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

(b) Is valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the Department. The Department shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

2. A taxpayer who is aggrieved by a decision rendered by a county assessor or the Department pursuant to subsection 1 may, within 30 days after receiving notice of that decision, appeal the decision to the Nevada Tax Commission.

3. A taxpayer who is aggrieved by a determination of the Nevada Tax Commission rendered on an appeal made pursuant to subsection 2 is entitled to a judicial review of that determination.

Sec. 14. NRS 361.535 is hereby amended to read as follows:

361.535 1. If the person, company or corporation so assessed neglects or refuses to pay the taxes within 30 days after demand, the taxes become delinquent. If the person, company or corporation so assessed neglects or refuses to pay the taxes within 10 days after the taxes become delinquent, a penalty of 10 percent must be added. If the tax and penalty are not paid on demand, the county assessor or his deputy may seize, seal or lock enough of the personal property of the person, company or corporation so neglecting or refusing to pay to satisfy the taxes and costs. The county assessor may use alternative methods of collection, including, without limitation, the assistance of the district attorney.

2. The county assessor shall:

(a) Post a notice of the seizure, with a description of the property, in a public area of the county courthouse or the county office building in which the assessor's office is located, and within the immediate vicinity of the property being seized; and

(b) At the expiration of 5 days, proceed to sell at public auction, at the time and place mentioned in the notice, to the highest bidder, for lawful money of the United States, a sufficient quantity of the property to pay the taxes and expenses incurred. For this service, the county assessor must be allowed from the delinquent person a fee of $3. The county assessor is not required to sell the property if the highest bid received is less than the lowest acceptable bid indicated in the notice.

➥ *A person who, after the notice of the seizure of the property is posted pursuant to this subsection within the immediate vicinity of the property being seized and before the delinquent taxes on the property are paid, and without the consent of the county assessor, removes, defaces, covers or otherwise conceals that notice, moves or sells the property, attempts to move*

or sell the property, or assists another person to move or sell the property, is guilty of a gross misdemeanor.

3. If the personal property seized by the county assessor or his deputy consists of a mobile or manufactured home, an aircraft, or the personal property of a business, the county assessor shall publish a notice of the seizure once during each of 2 successive weeks in a newspaper of general circulation in the county. If the legal owner of the property is someone other than the registered owner and the name and address of the legal owner can be ascertained from public records, the county assessor shall, before publication, send a notice of the seizure by registered or certified mail to the legal owner. The cost of the publication and notice must be charged to the delinquent taxpayer. The notice must state:

(a) The name of the owner, if known.

(b) The description of the property seized, including the location, the make, model and dimensions and the serial number, body number or other identifying number.

(c) The fact that the property has been seized and the reason for seizure.

(d) The lowest acceptable bid for the sale of the property, which is the total amount of the taxes due on the property and the penalties and costs as provided by law.

(e) The time and place at which the property is to be sold.

➥ After the expiration of 5 days from the date of the second publication of the notice, the property must be sold at public auction in the manner provided in subsection 2 for the sale of other personal property by the county assessor.

4. Upon payment of the purchase money, the county assessor shall deliver to the purchaser of the property sold, with a certificate of the sale, a statement of the amount of taxes or assessment and the expenses thereon for which the property was sold, whereupon the title of the property so sold vests absolutely in the purchaser.

5. After a mobile or manufactured home, an aircraft, or the personal property of a business is sold and the county assessor has paid all the taxes and costs on the property, the county assessor shall deposit into the general fund of the county the first $300 of the excess proceeds from the sale. The county assessor shall deposit any remaining amount of the excess proceeds from the sale into an interest-bearing account maintained for the purpose of holding excess proceeds separate from other money of the county. If no claim is made for the money within 6 months after the sale of the property for which the claim is made, the county assessor shall pay the money into the general fund of the county. All interest paid on money deposited in the account pursuant to this subsection is the property of the county.

6. If the former owner of a mobile or manufactured home, aircraft, or personal property of a business that was sold pursuant to this section makes a claim in writing for the balance of the proceeds of the sale within 6 months after the completion of the sale, the county assessor shall pay the balance of the proceeds of the sale or the proper portion of the balance over to the

former owner if the county assessor is satisfied that the former owner is entitled to it.

Sec. 15. NRS 361.5607 is hereby amended to read as follows:

361.5607 1. The tax receiver may petition the board of county commissioners to designate as uncollectible those taxes on personal property ~~[:]~~ *for whose collection all appropriate procedures have been followed and have proved unsuccessful and:*

(a) Which have been delinquent for 3 years or more; *or*

(b) Whose amount, including penalties and costs, is $25 or less . ~~[; and~~

~~(c) For whose collection all appropriate procedures have been followed and have proved unsuccessful.]~~

➥ The board may grant or deny the petition with respect to any or all of those taxes.

2. No future liability attaches to the county assessor or the county treasurer for any taxes designated as uncollectible by the board of county commissioners under this section.

Sec. 16. Chapter 361A of NRS is hereby amended by adding thereto a new section to read as follows:

When any portion of agricultural or open-space land is converted to a higher use, the county assessor shall determine its taxable and , as appropriate, agricultural or open-space use values against which to compute the deferred tax for each fiscal year the property was under agricultural or open-space assessment during the current fiscal year and the preceding 6 fiscal years, or such other period as is required pursuant to NRS 361A.283. The taxable values for each year must be comparable for the corresponding years to the taxable values for property similar, including, without limitation, in size, zoning and location, to the portion of property actually converted to a higher use. When agricultural land is converted to a higher use, the agricultural use values for each of the years may be based on the agricultural use for the latest year. When open-space land that is used as a golf course is converted to a higher use, the taxable values for the property must be determined, for the purpose of computing the deferred tax, in accordance with the provisions of NRS 361.227 based upon the assessment of the land as a golf course.

Sec. 17. NRS 361A.031 is hereby amended to read as follows:

361A.031 1. "Converted to a higher use" means:

(a) A physical alteration of the surface of the property enabling it to be used for a higher use;

(b) The recording of a final map or parcel map which creates one or more parcels not intended for agricultural *or open-space* use;

(c) The existence of a final map or parcel map which creates one or more parcels not intended for agricultural *or open-space* use; or

(d) A change in zoning to a higher use made at the request of the owner.

2. The term does not apply to ~~[the property remaining after a]~~ *any* portion of the parcel ~~[is converted to higher use pursuant to paragraph (b) or~~

~~(c) of subsection 1 if the remaining portion]~~ *that* continues to qualify as agricultural *or open-space* real property.

3. The term does not include leasing the land to or otherwise permitting the land to be used by an agricultural association formed pursuant to chapter 547 of NRS.

4. As used in this section:

(a) "Final map" has the meaning ascribed to it in NRS 278.0145.

(b) "Parcel map" has the meaning ascribed to it in NRS 278.017.

Sec. 18. *NRS 361A.040 is hereby amended to read as follows:*

361A.040 "Open-space real property" means:

1. Land:

(a) Located within an area classified pursuant to NRS 278.250 and subject to regulations designed to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment; and

(b) Devoted exclusively to open-space use.

2. The improvements on the land described in subsection 1 that is used primarily to support the open-space use and not primarily to increase the value of surrounding developed property or secure an immediate monetary return.

3. Land that is used as a golf course.

4. Land regarding which the owner has granted and has outstanding a lease of surface water rights appurtenant to the property to a political subdivision of this State for a municipal use, if the land was agricultural real property at the time the lease was granted.

Sec. 19. *NRS 361A.050 is hereby amended to read as follows:*

361A.050 "Open-space use" means the current employment of land, the preservation of which use would conserve and enhance natural or scenic resources, protect streams and water supplies, maintain natural features which enhance control of floods or preserve sites designated as historic by the Office of Historic Preservation of the Department of Cultural Affairs. The use of real property and the improvements on that real property as a golf course shall be deemed to be an open-space use of the land. *The use of land to lease surface water rights appurtenant to the property to a political subdivision of this State for a municipal use shall be deemed to be an open-space use of the land, if the land was agricultural real property at the time the lease was granted.*

Sec. 20. *NRS 361A.170 is hereby amended to read as follows:*

361A.170 1. Property used as a golf course is hereby designated and classified as open-space real property and must be assessed as an open-space use.

2. *Land regarding which the owner has granted and has outstanding a lease of surface water rights appurtenant to the property to a political subdivision of this State for a municipal use, if the land was agricultural real property at the time the lease was granted, is hereby designated and*

classified as open-space real property and must be assessed as an open-space use.

3. In addition to the designation and classification of ~~[a golf course]~~ *property* as open-space real property pursuant to ~~[subsection 1,]~~ *subsections 1 and 2,* the governing body of each city or county shall, from time to time, specify by resolution additional designations or classifications under its master plan that are designed to promote the conservation of open space, the maintenance of natural features for control of floods and the protection of other natural and scenic resources from unreasonable impairment.

~~[3.]~~ *4.* The board of county commissioners shall, from time to time, adopt by ordinance procedures and criteria which must be used in considering an application for open-space use assessment based on a designation or classification adopted pursuant to subsection ~~[2.]~~ *3.* The criteria may include requirements respecting public access to and the minimum size of the property.

Sec. 21. NRS 361A.180 is hereby amended to read as follows:

361A.180 Any owner of real property may apply to the county assessor for open-space use assessment based on a designation or classification adopted pursuant to subsection ~~[2]~~ *3* of NRS 361A.170 and the payment of taxes on such property as provided in this chapter.

~~[Sec. 18.]~~ *Sec. 22.* NRS 361A.230 is hereby amended to read as follows:

361A.230 1. The county assessor shall enter on the assessment roll the valuation based on open-space use until the property becomes disqualified for open-space use assessment by:

(a) Sale or transfer to an owner making it exempt from ad valorem property taxation;

(b) Removal of the open-space use assessment by the assessor, with the concurrence of the board, upon discovery that the property is no longer in the open-space use; ~~[or]~~

(c) *If the open-space use assessment is based on the designation and classification of the property pursuant to subsection 1 of NRS 361A.170, the cessation of the use of the property for golfing or golfing practice, except for:*

(1) A seasonal closure of the property to such use;

(2) A temporary closure of the property for maintenance or repairs; or

(3) A temporary closure of the property, upon notification of the county assessor, for not more than 12 months for any other purpose that is incidental to such use or necessary for the continuation of such use; or

(d) If the open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~[2]~~ *3* of NRS 361A.170:

(1) Notification by the applicant to the assessor to remove the open-space use assessment; or

(2) Failure to file a new application as provided in NRS 361A.190.

2. Except as otherwise provided in paragraph (a) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner does not operate to disqualify open-space real property from open-space use assessment so long as the property continues to be used exclusively for an open-space use. If the open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~[2]~~ *3* of NRS 361A.170, the new owner must apply for open-space use assessment in the manner provided in NRS 361A.190.

3. Whenever open-space real property becomes disqualified under subsection 1, the county assessor shall send a written notice of disqualification by certified mail with return receipt requested to each owner of record. The notice must contain the assessed value for the ensuing fiscal year.

Sec. 23. NRS 361A.240 is hereby amended to read as follows:

361A.240 1. The determination of use and the open-space use assessment in each year are final unless appealed.

2. If the application for an open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~[2]~~ *3* of NRS 361A.170, the applicant for the open-space assessment is entitled to:

(a) Appeal the determination made by the board of county commissioners to the district court in the county where the property is located, or if located in more than one county, in the county in which the major portion of the property is located, as provided in NRS 278.0235.

(b) Equalization of the open-space use assessment in the manner provided in chapter 361 of NRS for complaints of overvaluation, excessive valuation or undervaluation.

~~[Sec. 19.]~~ Sec. 24. NRS 361A.265 is hereby amended to read as follows:

361A.265 1. An owner of property which has received an agricultural or open-space use assessment:

(a) Must pay the full amount of deferred taxes calculated pursuant to NRS 361A.280 for any property for which a final map will be recorded pursuant to NRS 278.460 before the date on which the map is recorded ~~[.]~~ *, if the existence or recording of the map will result in the conversion of any portion of the property to a higher use.*

(b) In all other cases may, before the conversion of any portion of the property to a higher use, pay the amount of deferred taxes which would be due upon the conversion of that property pursuant to NRS 361A.280.

2. An owner who desires to pay the deferred taxes must request, in writing, the county assessor to estimate the amount of the deferred taxes which would be due at the time of conversion. After receiving such a request, the county assessor shall estimate the amount of the deferred taxes due for the next property tax statement and report the amount to the owner.

3. An owner who voluntarily pays the deferred taxes may appeal the valuations and calculations upon which the deferred taxes were based in the manner provided in NRS 361A.273.

4. If a parcel that has been created after the secured tax roll has been closed is converted to a higher use, the assessor must change the roll to reflect the changes in the parcel or parcels and assess the new parcel or parcels at taxable value for the following fiscal year. The deferred tax must be assessed pursuant to NRS 361A.280.

~~[Sec. 20.]~~ *Sec. 25.* NRS 361A.280 is hereby amended to read as follows:

361A.280 If the county assessor is notified or otherwise becomes aware that a parcel or any portion of a parcel of real property which has received agricultural or open-space use assessment has been converted to a higher use , the county assessor shall add to the tax extended against that portion of the property on the next property tax statement the deferred tax, which is the difference between the taxes that would have been paid or payable on the basis of the agricultural or open-space use valuation and the taxes which would have been paid or payable on the basis of the taxable value calculated pursuant to ~~[NRS 361A.155]~~ ~~[,]~~ ~~*[or]*~~ *section 16 of this act* ~~*[, as applicable,]*~~ for each year in which agricultural or open-space use assessment was in effect for the property during the fiscal year in which the property ceased to be used exclusively for agricultural use or approved open-space use and the preceding 6 fiscal years. The county assessor shall assess the property pursuant to NRS 361.227 for the next fiscal year following the date of conversion to a higher use.

~~[Sec. 21.]~~ *Sec. 26.* NRS 361A.283 is hereby amended to read as follows:

361A.283 1. If the county assessor determines that the deferred tax for any fiscal year or years was not assessed in the year it became due, he may assess it anytime within 5 fiscal years after the end of the fiscal year in which a parcel or portion of a parcel was converted to a higher use.

2. If the county assessor determines that a parcel was assessed for agricultural *or open-space* use rather than at full taxable value for any fiscal year in which it did not qualify for agricultural *or open-space* assessment, he may assess the deferred tax for that year anytime within 5 years after the end of that fiscal year.

3. A penalty equal to 20 percent of the total accumulated deferred tax described in subsections 1 and 2 must be added for each of the years in which the owner failed to provide the written notice required by NRS 361A.270. The county assessor may waive this penalty if he finds extenuating circumstances sufficient to justify the waiver.

~~[Sec. 22.]~~ *Sec. 27.* Section 57 of chapter 496, Statutes of Nevada 2005, as amended by section 27 of chapter 415, Statutes of Nevada 2007, at page 1899, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, ~~[2009.]~~ *2011*.

5. Section 43 of this act expires by limitation on June 30, ~~[2009.]~~ *2011*.

~~[Sec. 23.]~~ *Sec. 28.* Section 16 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 23, is hereby amended to read as follows:

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009 ~~[.~~

~~3. Sections 4 and 6 to 12, inclusive, of this act]~~ *, and* expire by limitation on June 30, 2009.

~~[4.]~~ *3.* Sections 1, 3 ~~[, 5]~~ and 13 of this act become effective on July 1, 2009.

~~[5.]~~ *4.* Sections 1 ~~[, 2, 3 and 5]~~ *to 4, inclusive,* of this act expire by limitation on June 30, 2011.

~~[Sec. 24.]~~ *Sec. 29. 1. NRS 361A.155 is hereby repealed.*

2. Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17, is hereby repealed.

~~[Sec. 25.]~~ *Sec. 30.* The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 26.]~~ *Sec. 31.* 1. This section and sections 3, 4 *, 27, 28, subsection 2 of section 29* and ~~[22 to 25, inclusive,]~~ *section 30* of this act become effective upon passage and approval.

2. Sections 1, 2 and 5 to ~~[21,]~~ *26,* inclusive, *and subsection 1 of section 29* of this act become effective on July 1, 2009.

TEXT OF REPEALED ~~[SECTION]~~ *SECTIONS*

361A.155 Determination of taxable value when agricultural land converted to higher use. When any portion of agricultural land is converted to a higher use, the county assessor shall determine its taxable and agricultural use values against which to compute the deferred tax for each fiscal year the property was under agricultural assessment during the current fiscal year and the preceding 6 fiscal years, or such other period as is required pursuant to NRS 361A.283. The agricultural use values for each

of the years may be based on the agricultural use for the latest year. The taxable values for each year must be comparable for the corresponding years to the taxable values for property similar, including, without limitation, in size, zoning and location, to the portion of property actually converted to a higher use.

Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17:

Sec. 5. NRS 362.170 is hereby amended to read as follows:

362.170 1. There is hereby appropriated to each county the total of the amounts obtained by multiplying, for each extractive operation situated within the county, the net proceeds of that operation and any royalties paid by that operation, *as estimated and paid pursuant to NRS 362.115, plus any amounts paid pursuant to NRS 362.130* by the combined rate of tax ad valorem ~~[,]~~ *for the fiscal year to which the payments apply*, excluding any rate levied by the State of Nevada, for property at that site, plus a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to the county. The Department shall report to the State Controller on or before May 25 of each year the amount appropriated to each county, as calculated for each operation from the ~~[final statement made in February of that year]~~ *estimate provided pursuant to NRS 362.115 for the current calendar year and any adjustments made pursuant to NRS 362.130* for the preceding calendar year. The State Controller shall distribute all money due to a county on or before May 30 of each year. *The Department shall report to the State Controller any additional payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 within 15 days after receipt of the payment, and the State Controller shall distribute the money to the appropriate county within 5 days after receipt of the report from the Department. For the purposes of this subsection, payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 apply to the fiscal year in which the statement of the estimated net proceeds is filed pursuant to paragraph (a) of subsection 1 of NRS 362.115.*

2. The county treasurer shall apportion to each local government or other local entity an amount calculated by:

(a) Determining the total of the amounts obtained by multiplying, for each extractive operation situated within its jurisdiction, the net proceeds of that operation and any royalty payments paid by that operation, by the rate levied on behalf of that local government or other local entity;

(b) Adding to the amount determined pursuant to paragraph (a) a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to that local government or local entity; and

(c) Subtracting from the amount determined pursuant to paragraph (b) a commission of 3 percent of that amount which must be deposited in the county general fund.

3. The amounts apportioned pursuant to subsection 2, including, without limitation, the amount retained by the county and excluding the percentage commission, must be applied to the uses for which each levy was authorized in the same proportion as the rate of each levy bears to the total rate.

4. The Department shall report to the State Controller on or before May 25 of each year the amount received as tax upon the net proceeds of geothermal resources which equals the product of those net proceeds multiplied by the rate of tax levied ad valorem by the State of Nevada.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

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

This bill is the biennial assessor's bill. It is a clean-up bill for them, and it contains two corrections. It was proposed by the Department of Taxation, and in sections 1 and 8, there are technical corrections. One allows the Department to continue to develop and use their own estimates of assessed values.The second, allows the Las Vegas Valley Water Authority to allow agricultural property with an outstanding lease of surface-water rights to be classified as open-space real property for the purposes of taxation if the lease is to a political subdivision of the State for a municipal use.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 296.

Bill read second time.

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

Amendment No. 759.

"SUMMARY—Revises provisions governing certain nonprofit carriers of elderly persons or persons with disabilities. (BDR 58-1116)"

"AN ACT relating to motor carriers; revising the conditions for nonprofit carriers of elderly persons or persons with disabilities in certain larger counties (currently Clark County) to qualify for an exemption from the requirement to obtain a certificate of public convenience and necessity; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the exemption from the requirement to obtain a certificate of public convenience and necessity for nonprofit carriers of elderly persons or persons with disabilities based upon the size of the county in which the carrier operates. (NRS 706.745)

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

Section 1. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to:

(a) Ambulances;

(b) Hearses; or

(c) Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.

2. A common motor carrier that enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of:

(a) Regular routes and fixed schedules;

(b) Nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170, if the transportation is available upon request and without regard to regular routes or fixed schedules;

(c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or

(d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

3. Under any agreement for a system of public transit that provides for the transportation of passengers that is described in subsection 2:

(a) The public entity shall provide for any required safety inspections; or

(b) If the public entity is unable to do so, the Authority shall provide for any required safety inspections.

4. In addition to the requirements of subsection 3, under an agreement for a system of public transit that provides for the transportation of passengers that is described in:

(a) Paragraph (a) of subsection 2, the public entity shall establish the routes and fares.

(b) Paragraph (c) or (d) of subsection 2, the common motor carrier:

(1) May provide transportation to any passenger who can board a vehicle with minimal assistance from the operator of the vehicle.

(2) Shall not offer medical assistance as part of its transportation service.

5. ~~[A]~~ *In a county whose population:*

(a) Is less than 400,000, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

(b) Is 400,000 or more, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience

and necessity to operate as a common motor carrier of such passengers only, but:

(1) Only if the nonprofit carrier:

(I) Does not charge for transportation services;

(II) Provides transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705; or

(III) Enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission; and

(2) Such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

6. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

7. Before an incorporated city or a county enters into an agreement with a common motor carrier for a system of public transit that provides for the transportation of passengers that is described in paragraph (c) or (d) of subsection 2 in an area of the incorporated city or an area of the county, it must determine that:

(a) There are no other common motor carriers of passengers who are authorized to provide such services in that area; or

(b) Although there are other common motor carriers of passengers who are authorized to provide such services in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, such services.

Sec. 2. This act becomes effective on ~~[July 1, 2009.]~~ *January 1, 2010.*

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

This Amendment No. 759 to Assembly Bill No. 296 merely changes the effective date to January 1, 2010.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 319.

Bill read second time.

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

Amendment No. 739.

"SUMMARY—Makes various changes relating to school employees. (BDR 34-50)"

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The purpose of the meeting; and

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

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

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

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

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

negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

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

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

(b) The purpose of the meeting; and

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

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

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

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

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

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

~~4. "Immorality" means:~~

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

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

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

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

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

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

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

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

~~(a) Substitute teachers; or~~

~~(b) Adult education teachers.~~

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

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

~~provisions of NRS 391.311 to 391.3197, inclusive, *and section 12 of this act* for demotion, suspension or dismissal apply to them.]~~ *(Deleted by amendment.)*

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

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

2. Within 5 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The employee is entitled to continue to receive his salary and other benefits after the suspension becomes effective until the date on which the dismissal proceedings are commenced. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

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

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

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

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

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

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

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

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senators Woodhouse and Cegavske.

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

SENATOR WOODHOUSE:

Amendment No. 739 to Assembly Bill No. 319 clarifies that the definition of "school employee" does not include any temporary employee or independent contractor. It adds a provision to clarify that disciplinary action does not include action taken by an administrator or representative of a school district which is verbal or written and which is not investigatory in nature and is not intended to result in the admonition, suspension, demotion, transfer or dismissal of a school employee.

It deletes section 12 of the bill, relating to involuntary transfer. It adds provisions that an unlicensed employee may be suspended with loss of pay at any time after a due-process hearing has been held and requires an unlicensed employee who is dismissed from employment to be reinstated with full compensation, plus interest, for all missed days of work if sufficient grounds for dismissal do not exist.

SENATOR CEGAVSKE:

Thank you, Mr. President. I was not in the meeting when we heard this education bill, but I do have some questions and concerns about the amendment and about the bill. My colleague from Senate District No. 5 indicated that this amendment takes out part-time and seasonal employees.

SENATOR WOODHOUSE:

We clarified the definition of school employee. Temporary employees are typically the substitutes. They do not apply to this nor do independent contractors. In some school districts, there are not enough speech therapists or school psychologists. Occasionally, districts have to get independent contractors to come into the schools to provide services, and they do not qualify under this legislation. That information is in section 5.

SENATOR CEGAVSKE:

A part-time or seasonal employee is in the terminology of who is employed on a temporary basis?

Senator Woodhouse moved that Assembly Bill No. 319 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Assembly Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 694.

"SUMMARY—Revises provisions relating to guardianships. (BDR 13-906)"

"AN ACT relating to guardianships; requiring additional information in a petition for appointment of a guardian *under certain circumstances*; requiring that a proposed *adult* ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed *adult* ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section ~~[1]~~ *3* of this bill requires that a petitioner for the appointment of a guardian *for a proposed adult ward* provide the court with an assessment completed by a licensed physician of the proposed *adult* ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

Section ~~[2]~~ *4* of this bill provides that a proposed *adult* ward must be advised of his right to counsel in the guardianship proceeding and requires that certain information or responses provided by the *adult* ward relating to his right to counsel and to the proceeding be transmitted to the court. (NRS 159.0485)

Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed indicating the reasons the proposed ward cannot appear. (NRS 159.0535) Section ~~[3]~~ *5* of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. Section ~~[3]~~ *5* further provides that if a proposed ward *is an adult and* cannot attend the hearing or appear by videoconference, the court must have the person who signs the certificate to excuse the proposed *adult* ward from attending the hearing meet with the proposed *adult* ward and report back to the court regarding the proposed *adult* ward's desire for representation at the hearing, preferences if a guardianship is imposed and any information the person believes may have limited any of the proposed *adult* ward's responses.

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the

condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) Section ~~[4]~~ *6* of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a *secured* residential *long-term care* facility *;* ~~[which provides long-term care and which restricts the ward from leaving the facility without supervision;]~~ and (2) ~~[establishes procedures for the handling of such a report following its filing.]~~ *authorizes the court to determine the form and contents of such a report.*

Section ~~[5]~~ *7* of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a *secured* residential *long-term care* facility *.* ~~[which provides long-term care and restricts the ward from leaving the facility without supervision.]~~ However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing. (NRS 159.113)

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. "Secured residential long-term care facility" means a residential facility providing long-term care that is designed to restrict a resident of the facility from leaving the facility, a part of the facility or the grounds of the facility through the use of locks or other mechanical means unless the resident is accompanied by a staff member of the facility or another person authorized by the facility or the guardian.

2. The term does not include a residential facility providing long-term care which uses procedures or mechanisms only to track the location or actions of a resident or to assist a resident to perform the normal activities of daily living.

Sec. 2. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, *and section 1 of this act*, have the meanings ascribed to them in those sections.

~~[Section 1.]~~ *Sec. 3.* NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

3. Before the court makes a finding pursuant to NRS 159.054, ~~[the]~~ a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.

~~[Sec. 2.]~~ *Sec. 4.* NRS 159.0485 is hereby amended to read as follows:

159.0485 1. *At the first hearing for the appointment of a guardian ~~[,]~~ for a proposed adult ward, the court shall advise ~~[a]~~ the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the person who signs the certificate pursuant to NRS 159.0535 to excuse the proposed adult ward from attending the hearing shall advise the proposed adult ward of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding.*

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

~~[2.]~~ *3.* Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

~~[Sec. 3.]~~ *Sec. 5.* NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician who is licensed to practice in this State specifically states the condition of the proposed ward , ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[;]~~ *and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward;* or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward , ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ *and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward.*

2. *A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed*

ward is an adult and cannot attend by videoconference, the person who signs the certificate [pursuant to] described in subsection 1 shall:

(a) Inform the proposed adult ward that the petitioner [wishes to become the] is requesting that the court appoint a guardian [of] for the proposed adult ward;

(b) Ask the proposed adult ward for a response to the guardianship petition;

(c) Inform the proposed adult ward of his right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and

(d) Ask the preferences of the proposed adult ward for the appointment of a particular person as his guardian.

3. [The] If the proposed ward is an adult, the person who signs the certificate [pursuant to] described in subsection 1 shall state in the certificate:

(a) That the proposed adult ward has been advised of his right to counsel and asked whether he wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed adult ward.

4. The court may prescribe the form in which the certificate must be filed. If the certificate consists of separate parts, each part must be signed by [the] a person [executing the certificate pursuant to] identified in subsection 1.

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

[Sec. 4.] *Sec. 6.* NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian; [and]

(b) *Within 10 days of moving a ward to a secured residential long-term care facility ; [which provides long-term care and restricts the ward from leaving the facility without supervision;] and*

(c) At such other times as the court may order.

2. *A report filed pursuant to paragraph (b) of subsection 1 must:*

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the attorney for the ward, if any . [, and on the nearest advocate for residents of facilities for long-term care

~~*within the Aging Services Division of the Department of Health and Human Services; and*~~

~~*(c) Be accompanied by the form prescribed by the court which allows the guardian to indicate whether or not the guardian consents to have the Aging Services Division interview the ward and prepare and transmit a report to the court concerning the transfer of the ward.*~~

~~*3. If the guardian consents to the preparation and transmittal of the report to the court, the Aging Services Division shall prepare the report and transmit the report to the court, the guardian and the attorney for the ward, if any. In preparing the report, the Division is not required to review generally whether the ward's transfer exceeded the services provided to residents pursuant to NRS 427A.135.]*~~

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

~~[3.]~~ *5.* The court is not required to hold a hearing or enter an order regarding the report.

~~[Sec. 5.]~~ *Sec. 7.* NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Change the state of residence or domicile of the ward.

(k) Exercise the right of the ward to take under or against a will.

(l) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(m) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(n) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(o) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility . ~~[which provides long-term care and which restricts the ward from leaving the facility without supervision.]~~

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a secured residential long-term care facility ~~[which provides long-term care and which restricts the ward from leaving the facility without supervision]~~ if:

(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or

(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.

7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.

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 the bill applies only to adult wards of a guardian. It provides a definition, "secured residential long-term care facility," and it clarifies that the report filed with the court is for a guardian who proposes to move a ward to such a facility. The amendment authorizes the court to determine the contents of the report and deletes involvement by the Aging Services Division.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 361.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 655.

"SUMMARY—Makes changes relating to common-interest communities. (BDR 10-940)"

"AN ACT relating to common-interest communities; providing that, under certain circumstances, a unit-owners' association may, without liability for trespass, enter the grounds of a vacant unit or a unit in foreclosure to abate a public nuisance or maintain the exterior of the unit; providing that a unit-owners' association may request a copy of certain deeds of trust under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law assigns the responsibility for maintenance of a unit in a common-interest community to the owner of the unit, and maintenance of a common element in the community to the unit-owners' association. (NRS 116.3107) Existing law provides procedures for the executive board of the association to fine a unit's owner who fails to maintain his residence according to the governing documents. (NRS 116.31031)

Section 1 of this bill provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or that is in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if, after notice and a hearing, the unit's owner refuses or fails to do so. Section 1 also provides that ~~[: (1)]~~ any amount of the costs for such maintenance or abatement which are not paid by the unit's owner will be a lien against the unit *.* ~~[; and (2)]~~ *Further, this section provides that* the lien has priority over certain other liens, claims, encumbrances and titles, ~~[depending on whether the unit is a single-family detached dwelling,]~~ except certain liens recorded before the declaration for the association was recorded and certain liens of assessments and taxes. *Finally, this section provides that the period of priority of the lien shall be indefinite, unless regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association provide for a shorter period of priority for the lien, but even if such organization's regulations provide for a shorter period of priority for the lien, the period of priority shall not be less than 6 months.*

Section 2 of this bill specifically authorizes a unit-owners' association to charge a unit's owner for the maintenance and abatement services provided pursuant to section 1 of the bill. (NRS 116.3102) Section 3 of this bill further provides that a lien for such maintenance and abatement services has priority over a first security interest on the unit . ~~[under certain circumstances if the unit is a single-family detached dwelling.]~~ (NRS 116.3116)

Section 4 of this bill provides that a unit-owners' association may record in the office of the county recorder a request for a trustee or other authorized person to provide the association with a copy of the deed after the sale of a unit upon a deed of trust for any unit within the association. (NRS 107.090)

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. A person who holds a security interest in a unit must provide the association with his contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or

(b) Records or has recorded on his behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing ~~[landscaping,]~~ maintenance, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and

community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.

4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, ~~[any]~~ reasonable inspection fees, notification and collection costs and ~~[interests,]~~ interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

5. A lien described in subsection 4 ~~[on any unit]~~ bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges ~~[and]~~ , including all interest due ~~[is]~~ , are paid.

6. ~~[A]~~ Except as otherwise provided in this subsection, a lien described in subsection 4 ~~[on a unit which is a single family detached dwelling]~~ is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.

7. A person who purchases or acquires ~~[the]~~ a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. ~~[Units]~~ Such a unit may only be removed from ~~[an association]~~ a common-interest community in accordance with the governing documents ~~[of the association]~~ pursuant to this chapter.

8. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.

9. As used in this section ~~[, "vacant"]~~ :

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.

(b) "Vacant" means a unit:

~~[(a)]~~ (1) Which reasonably appears to be unoccupied;

~~[(b)]~~ (2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and

~~[(c)]~~ *(3) On which the owner has failed to pay assessments for more than* ~~[30]~~ *60 days.*

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 ~~[.]~~ *, including, without limitation, any services provided pursuant to section 1 of this act.*

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 3. 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 *any charges incurred by the association on a unit* ~~*[which is a single family detached dwelling]*~~ *pursuant to section 1 of this act and 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.

Sec. 4. NRS 107.090 is hereby amended to read as follows:

107.090 1. As used in this section, "person with an interest" means any person who has or claims any right, title or interest in, or lien or charge upon, the real property described in the deed of trust, as evidenced by any document or instrument recorded in the office of the county recorder of the county in which any part of the real property is situated.

2. A person with an interest or any other person who is or may be held liable for any debt secured by a lien on the property desiring a copy of a notice of default or notice of sale under a deed of trust with power of sale upon real property may at any time after recordation of the deed of trust record in the office of the county recorder of the county in which any part of the real property is situated an acknowledged request for a copy of the notice of default or of sale. The request must state the name and address of the person requesting copies of the notices and identify the deed of trust by stating the names of the parties thereto, the date of recordation, and the book and page where it is recorded.

3. The trustee or person authorized to record the notice of default shall, within 10 days after the notice of default is recorded and mailed pursuant to NRS 107.080, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice, addressed to:

(a) Each person who has recorded a request for a copy of the notice; and

(b) Each other person with an interest whose interest or claimed interest is subordinate to the deed of trust.

4. The trustee or person authorized to make the sale shall, at least 20 days before the date of sale, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice of time and place of sale, addressed to each person described in subsection 3.

5. *An association may record in the office of the county recorder of the county in which a unit governed by the association is situated an acknowledged request for a copy of the deed upon sale of the unit pursuant to a deed of trust. A request recorded by an association must include, without limitation:*

(a) A legal description of the unit or the assessor's parcel number of the unit;

(b) The name and address of the association; and

(c) A statement that the request is made by an association.

6. A request recorded by an association pursuant to subsection 5 regarding a unit supersedes all previous requests recorded by the association pursuant to subsection 5 regarding the unit.

7. If a trustee or person authorized to record a notice of default records the notice default for a unit regarding which an association has recorded a request pursuant to subsection 5, the trustee or authorized person shall mail to the association a copy of the deed upon the sale of the unit pursuant to a deed of trust within 15 days after the trustee records the deed upon the sale of the unit.

8. No request recorded pursuant to the provisions of subsection 2 *or 5* affects the title to real property ~~[.]~~ *, and failure to mail a copy of the deed upon the sale of the unit after a request is made by an association pursuant to subsection 5 does not affect the title to real property.*

9. As used in this section:

(a) "Association" has the meaning ascribed to it in NRS 116.011.

(b) "Unit" has the meaning ascribed to it in NRS 116.093.

Senator Copening moved the adoption of the amendment.

Remarks by Senators Copening and Lee.

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

SENATOR COPENING:

The amendment provides that the period of priority of the lien is indefinite. However, if federal regulations require a shorter period, the period of priority in Nevada will not be less than six months.

The amendment also clarifies that units purchased through foreclosure are bound by the governing documents of the association.

SENATOR LEE:

On page 4, "vacant" means, "which reasonably appears to be unoccupied." In the subsection of that it states, "On which the owner has failed to pay assessments for more than 60 days." Does the amendment allow the homeowners' association to enter that premises if the association assessments have not been paid for more than 60 days to legitimately snoop around? I can understand a health issue. I can understand if there is water pouring out of the house, that the association might be able to enter. However, the failure to pay your assessment for more than 60 days is an unreasonable search and entry of the unit.

SENATOR COPENING:

We vetted this a great deal in committee. In the entire section, the word "and" accompanies it. The "vacant" means it must reasonably appear to be unoccupied. The owner will have had to fail to maintain the exterior by the standards set forth in the governing documents and in which the owner has failed to pay the assessments for more than 60 days. This was a concern of the committee as well. We wanted to make certain this was not an opportunity for anyone to just go snooping around. With all three of the provisions in place, we believe that is enough evidence that a home is vacant.

SENATOR LEE:

I am not satisfied. Do one, two and three all have to be taken into consideration before a person can involve themselves in number three?

SENATOR COPENING:

That is correct.

SENATOR LEE:

I have problems with this bill, but I will discuss it further with the Senator.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 370.

Bill read second time.

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

Amendment No. 598.

"SUMMARY—Makes various changes to provisions governing pharmacies. (BDR 54-1014)"

"AN ACT relating to pharmacies; providing for the establishment of remote sites, satellite consultation sites and telepharmacies; requiring the State Board of Pharmacy to adopt regulations for the operation of such establishments ~~[,]~~ *and the governance of dispensing practitioners and dispensing technicians;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the issuance of a license to an applicant to conduct a pharmacy upon compliance with all licensing requirements. (NRS 639.231) This bill authorizes the establishment of remote sites and satellite consultation sites for the dispensing of prescriptions, and telepharmacies, which are connected to such sites via computer link, video link and audio link to enable a registered pharmacist *or a dispensing practitioner* at the telepharmacy to oversee the dispensing of prescriptions to patients at a remote site or satellite consultation site.

Section 6 of this bill requires a remote site or satellite consultation site to be located at least 50 miles from the nearest pharmacy and in a service area with a total population of less than 2,000. Section 6 also authorizes such sites to be operated by a pharmaceutical technician ~~[.]~~ *or a dispensing technician.* Section 6 further requires the State Board of Pharmacy to adopt regulations which establish the manner of determining a "service area." Sections 8 and 9 of this bill exempt those sites from the requirement that every pharmacy must be managed by a registered pharmacist. (NRS 639.220, 639.284)

Section 5 of this bill requires the State Board of Pharmacy to adopt regulations for the operation of remote sites, satellite consultation sites and telepharmacies ~~[.]~~ *and for the definition, registration, discipline, qualifications, powers and duties of dispensing practitioners and dispensing technicians.*

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ *1.5* to 6, inclusive, of this act.

Sec. 1.5. "Federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

Sec. 2. *"Remote site" means* ~~*[a]*~~ *:*

1. A pharmacy staffed by a pharmaceutical technician and equipped to facilitate communicative access to a pharmacy and its registered pharmacists ; or

2. An office:

(a) Of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center; and

(b) That is:

(1) Staffed by a dispensing technician; and

(2) Equipped to facilitate communicative access to the dispensing practitioner,

➥ via computer link, video link and audio link during regular business hours.

Sec. 3. *"Satellite consultation site" means a site that only dispenses filled prescriptions which are delivered to that site after the prescriptions are prepared ~~[at]~~ :*

1. At a pharmacy ~~[and delivered to that site and]~~ where a registered pharmacist ~~[at the pharmacy that prepared the prescription]~~ provides consultation to patients via computer link, video link and audio link during regular business hours ~~[.]~~ ; or

2. At an office:

(a) Of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center; and

(b) Where the dispensing practitioner provides consultation to patients via computer link, video link and audio link during regular business hours.

Sec. 4. *"Telepharmacy" means ~~[a]~~ :*

1. A pharmacy ; or

2. An office of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center,

➥ that is accessible by a remote site or a satellite consultation site via computer link, video link and audio link.

Sec. 5. *The Board shall adopt regulations ~~[as]~~ :*

1. As are necessary for the safe and efficient operation of remote sites, satellite consultation sites and telepharmacies ~~[.]~~ ; and

2. To define the terms "dispensing practitioner" and "dispensing technician," to provide for the registration and discipline of dispensing practitioners and dispensing technicians, and to set forth the qualifications, powers and duties of dispensing practitioners and dispensing technicians.

Sec. 6. *1. In addition to the requirements set forth in this chapter and any other specific statute, a remote site or satellite consultation site must be located:*

(a) At least 50 miles or more from the nearest pharmacy; and

(b) In a service area with a total population of less than 2,000.

2. A remote site or satellite consultation site may be operated by ~~[a]~~ :

(a) A pharmaceutical technician without the physical presence of a managing pharmacist, except that the managing pharmacist of the

telepharmacy shall also be deemed the managing pharmacist of the remote site or satellite consultation site ~~[.]~~ *; or*

(b) A dispensing technician without the physical presence of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center, except that the dispensing practitioner shall also be deemed the managing pharmacist of the remote site or satellite consultation site.

3. The Board shall adopt regulations for the purposes of this section, which establish the manner of determining a "service area." Such a "service area" must be a geographical area of between 5 and 10 miles in radius. In adopting the regulations, the Board may consider, without limitation, the ease or difficulty of access to the nearest pharmacy and the availability of roadways.

Sec. 7. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, *and sections* ~~*[2, 3 and]*~~ *1.5 to 4 , inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 639.220 is hereby amended to read as follows:

639.220 1. Except as otherwise provided in NRS 639.2324, 639.2326 ~~[and]~~ , 639.2327 ~~[,]~~ *and section 6 of this act,* each pharmacy must be managed by a registered pharmacist, approved by the Board, who is responsible for compliance by the pharmacy and its personnel with all state and federal laws and regulations relating to the operation of the pharmacy and the practice of pharmacy.

2. Except as otherwise provided in NRS 639.2321, if the managing pharmacist is the only registered pharmacist employed in the pharmacy, the Board may authorize his absence each day for a total period of not to exceed 2 hours for the purpose of taking meals if:

(a) A registered pharmacist is on call during his absence;

(b) A sign, as prescribed by regulations of the Board, is posted for public view in the pharmacy indicating the absence of the pharmacist and the hours of his absence; and

(c) All drugs, poisons, chemical and restricted devices are kept safe in a manner prescribed by regulations of the Board.

➥ The authorization required from the Board must be in writing and be retained in the pharmacy and available for inspection.

3. Except as otherwise provided in this subsection ~~[.]~~ *and section 6 of this act:*

(a) A person shall not act as a managing pharmacist for more than one licensed pharmacy.

(b) Each managing pharmacist shall be on duty in the pharmacy and active in the management of the pharmacy full-time, but he need not be present during the time the pharmacy is open for business if he designates another pharmacist employed in the pharmacy to assume his duties in his absence.

(c) The managing pharmacist is responsible for the activities of his designee.

➥ A waiver from the limitation set forth in paragraph (a) may be granted by the Board to the managing pharmacist of a pharmacy located in a hospital with fewer than 100 beds or in a correctional institution housing fewer than 1,500 inmates.

4. The Board must be notified before there is a change in the managing pharmacist.

Sec. 9. NRS 639.284 is hereby amended to read as follows:

639.284 ~~[Any]~~ *Except as otherwise provided in section 6 of this act, any* person who:

1. Being the licensed proprietor of a pharmacy, fails to place a registered pharmacist in charge of such pharmacy, or permits the compounding or dispensing of drugs or prescriptions, or the selling of drugs, poisons or devices, the sale of which is restricted by the provisions of this chapter, by any person other than a registered pharmacist or an intern pharmacist, is guilty of a misdemeanor.

2. Is not a registered pharmacist and who takes charge of or acts as manager of any pharmacy, compounds or dispenses any prescription, or sells any drug, poison or device, the sale of which is restricted by the provisions of this chapter, is guilty of a misdemeanor.

Sec. 10. The State Board of Pharmacy shall, on or before January 1, 2010, adopt any regulations which are required by or necessary to carry out the provisions of this act.

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

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

This amendment requires the State Board of Pharmacy to adopt regulations necessary for the operation of remote sites, satellite consultation sites, telepharmacies and for the regulation of dispensing practitioners and dispensing technicians. A remote or satellite consultation site must be located in a service area serving fewer than 2,000 persons and must be at least 50 miles from the nearest pharmacy. It may be operated by a pharmaceutical technician or a dispensing technician. This concern was brought to us in trying to address some of the dispensing problems that have occurred in the rural areas and the pharmacy board did not feel they had the statutory authority to develop regulations. We are now giving them permission to do so.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 378.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 679.

"SUMMARY—Revises provisions governing distributors of intoxicating liquor. (BDR 32-894)"

"AN ACT relating to liquor; authorizing a wholesale dealer to receive original packages of a brand of liquor from an affiliate of the wholesale dealer located outside this State under certain circumstances; prohibiting a supplier from unreasonably withholding or delaying its approval of certain decisions relating to a franchise with a wholesaler under certain circumstances; imposing other prohibitions on a supplier; providing a remedy for violations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the circumstances under which intoxicating liquor may be imported and sold in this State. (Chapter 369 of NRS) Section 1 of this bill provides that a wholesale dealer of liquor who is a designated importer for a supplier may receive original packages of liquor from an affiliate of the wholesale dealer located outside this State if certain conditions are met. Section 1 also provides that such an affiliate is not a supplier when the affiliate ships liquor to the wholesale dealer.

Existing law sets forth various requirements concerning a franchise between a supplier and a wholesaler of malt beverages, distilled spirits and wines. (NRS 597.120-597.180) Section 3 of this bill prohibits a supplier from unreasonably withholding or delaying its approval of certain sales, assignments or transfers of an interest in a wholesaler's assets or of the substitution of a person under a franchise. Section 3 provides for the liability of the supplier to a wholesaler if the supplier unreasonably withholds its consent in violation of section 3. Section 4 prohibits a supplier from taking various other actions against a wholesaler.

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

Section 1. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a supplier designates a wholesale dealer as the designated importer of a brand of liquor pursuant to NRS 369.386, the wholesale dealer may, without any additional designation or further consent from the supplier, receive original packages of that brand of liquor from an affiliate of the wholesale dealer located outside of this State if:

(a) The affiliate operates a warehouse outside this State from which the affiliate ships the liquor;

(b) The affiliate is licensed as a wholesaler for the liquor in the state from which the affiliate ships the liquor;

(c) The wholesale dealer registers the name and address of the affiliate's warehouse with the Department on a form prescribed by the Department; and

(d) As soon as practicable after receiving the liquor, the wholesale dealer reports the receipt of the liquor to the Department and pays all applicable excise taxes thereon pursuant to NRS 369.330.

2. A wholesale dealer may not receive more than 15 percent of the total amount of any brand of liquor imported into this State during a

calendar year pursuant to this section. Any liquor received by the wholesale dealer from an affiliate pursuant to this section must be purchased in accordance with the terms and conditions of the wholesaler's franchise with the supplier.

3. A transfer of liquor pursuant to this section is not a purchase or sale of that liquor.

~~[3.]~~ 4. An affiliate of a wholesale dealer located outside this State who ships liquor pursuant to this section is not engaged in business as a supplier for purposes of this chapter and chapter 597 of NRS. The provisions of this subsection do not authorize a wholesale dealer to receive liquor from an affiliate who is a supplier, as defined in NRS 597.140, or the holder of a certificate of compliance issued pursuant to NRS 369.430.

~~[4.]~~ 5. As used in this section ~~[, "affiliate"]~~ :

(a) "Affiliate" means a wholesale dealer or a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a wholesale dealer. As used in this ~~[subsection,]~~ paragraph, "control" means not less than 50 percent control, directly or indirectly, through one or more intermediaries.

(b) "Franchise" has the meaning ascribed to it in NRS 597.130.

Sec. 2. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. *1. A supplier shall not unreasonably withhold or delay his approval of any assignment, sale or transfer of the stock of a wholesaler or of all or any portion of a wholesaler's assets, a wholesaler's voting stock, the voting stock of any parent corporation or the beneficial ownership or control of any other entity owning or controlling the wholesaler, including the wholesaler's rights and obligations under the terms of a franchise, whenever a person to be substituted under the terms of the franchise meets reasonable standards imposed upon the wholesaler and any other wholesaler of the supplier of the same general class, after consideration of the size and location of the marketing area of the wholesaler.*

2. Upon the death of a partner of a partnership that operates the business of a wholesaler, a supplier shall not unreasonably withhold or delay his approval of maintaining the franchise between the supplier and each surviving partner.

3. Upon the death of any owner, controlling shareholder or operator of a wholesaler, a supplier shall not deny approval of any transfer of ownership to a surviving spouse, child or grandchild of the owner who has reached the age of majority at the time of death, controlling shareholder or operator. Any subsequent transfer of ownership by the spouse, child, grandchild, controlling shareholder or operator is subject to the provisions of subsection 1.

4. In addition to the provisions of NRS 597.170, a supplier who unreasonably delays or withholds his consent or unreasonably denies approval of a sale, transfer or assignment of any ownership interest in a

wholesaler is liable to the wholesaler for the laid-in costs of inventory of each affected brand of liquor and any diminution in the fair market value of the business of the wholesaler in relation to each affected brand. The damages recoverable pursuant to this section include, without limitation, all reasonable costs of bringing the action and attorney's fees. For the purpose of this subsection, the fair market value of a business of a wholesaler includes, without limitation, the good will of the business and its value as a going concern, if any.

5. The provisions of this section may not be modified by agreement. Any provision in an agreement is void if the provision includes such a modification.

Sec. 4. *A supplier shall not:*

1. Prohibit a wholesaler from selling an alcoholic beverage of any other supplier;

2. Fix or maintain the price at which a wholesaler may resell an alcoholic beverage purchased from the supplier;

3. Require a wholesaler to pay to the supplier all or any portion of the difference in the suggested retail price of an alcoholic beverage and the actual price at which the wholesaler sells the alcoholic beverage;

4. Require a wholesaler to accept delivery of any alcoholic beverage or any other item that is not voluntarily ordered by the wholesaler or otherwise not required under the franchise between the supplier and wholesaler or is in violation of any levels of inventory that are mutually agreed upon in writing by the supplier and wholesaler;

5. Prohibit or restrain, directly or indirectly, a wholesaler from participating in an organization that represents the interests of wholesalers for any lawful purpose; or

6. Require a wholesaler to participate in or contribute to any advertising fund or promotional activity that:

(a) Is not used for advertising or a promotional activity in the marketing area of the wholesaler; or

(b) Requires a contribution by the wholesaler that exceeds any amount specified for that purpose in the franchise.

Sec. 5. NRS 597.120 is hereby amended to read as follows:

597.120 As used in NRS 597.120 to 597.180, inclusive, *and sections 3 and 4 of this act,* unless the context otherwise requires, the words and terms defined in NRS 597.125 to 597.150, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 597.170 is hereby amended to read as follows:

597.170 1. Any wholesaler may bring an action in a court of competent jurisdiction against a supplier for violation of NRS 597.120 to 597.180, inclusive, and *sections 3 and 4 of this act and* may recover the damages sustained by him, together with such costs of the action and reasonable attorney's fees as are authorized under NRS 18.110.

2. The remedies provided in NRS 597.120 to 597.180, inclusive, *and sections 3 and 4 of this act* are independent of and supplemental to any other remedy or remedies available to the wholesaler in law or equity.

Sec. 7. NRS 597.180 is hereby amended to read as follows:

597.180 In any action brought by a wholesaler against a supplier for termination or noncontinuance of, or causing to resign from a franchise in violation of NRS 597.120 to 597.180, inclusive, *and sections 3 and 4 of this act*, the supplier has the burden of establishing that he acted for good cause and that the wholesaler did not act in good faith. It is a complete defense for the supplier to prove that the termination, noncontinuance or causing to resign was done in good faith and for good cause.

Sec. 8. NRS 597.262 is hereby amended to read as follows:

597.262 1. Except as otherwise provided in this section and NRS 228.380, the Attorney General has primary jurisdiction to enforce the provisions of NRS 597.120 to 597.260, inclusive, and *sections 3 and 4 of this act and* shall cause appropriate legal action to be taken to enforce those provisions.

2. The Attorney General has concurrent jurisdiction with the district attorneys of this State to enforce the provisions of NRS 597.225 and 597.245.

3. This section does not prohibit:

(a) A wholesaler from bringing an action against a supplier pursuant to NRS 597.170 ~~[.]~~ *or section 3 of this act.*

(b) A customer, supplier or wholesaler from bringing an action against a retailer pursuant to NRS 597.260.

Senator Coffin moved the adoption of the amendment.

Conflict of interest declared by Senator Raggio.

Remarks by Senators Coffin and Carlton.

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

SENATOR COFFIN:

The purpose of this amendment is to bring some control to the method of shipments across state lines of a wholesale supplier of liquor who might own a warehouse in another state but does business in this State. Shipment occurs back and forth based upon need. In order to make certain that there is better record keeping, that the taxes are collected properly, the committee feels that there should be a limitation on the amount of switching back and forth to 15 percent of a particular brand per year.

SENATOR CARLTON:

I rise in opposition to the amendment. I had concerns about the total bill. Fifteen percent of a lot is still a lot. If the purpose is getting the liquor and wines to the high rollers, then, why do we not just have them have their home base here in Nevada? Why do we have to ship it across state lines? I never did receive a good answer about that issue. I know what 15 percent is. I have worked for 15 percent for many years of my life. When it is a big tab, it is a big tip.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 387.

Bill read second time.

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

Amendment No. 801.

"SUMMARY—Makes various changes to provisions concerning energy resources. (BDR 58-223)"

"AN ACT relating to public utilities; requiring public utilities to submit certain information regarding renewable energy to the Public Utilities Commission of Nevada; authorizing the Commission to approve construction or expansion of transmission facilities based on an expectation of future renewable energy development; revising provisions requiring certain providers of electric service to comply with a portfolio standard for renewable energy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 6 of this bill requires a utility to submit with its plan to increase its supply of electricity or decrease the demands made by its customers a description of specific geographic zones where renewable energy could be used to generate electricity but transmission facilities are inadequate to deliver such electricity to customers.

Section 7 of this bill requires the Public Utilities Commission of Nevada to consider the level of financial commitment from developers of renewable energy projects when evaluating a plan submitted pursuant to NRS 704.741.

Section 8 of this bill allows the Commission to accept a transmission plan if it would help the utility to meet the portfolio standard defined in NRS 704.7805.

Section 4.3 of this bill requires the Commission to report to the Director of the Legislative Counsel Bureau by February 15 of each odd-numbered year concerning any transmission plan proposed *,* ~~[or]~~ accepted *or made known to the Commission* since the last report.

Section 9 of this bill revises the amount of electricity that a provider must generate, acquire or save to satisfy the portfolio standard from 2025 onward. Section 9 also revises the amount of electricity that must be generated or acquired from solar energy renewable systems to satisfy the portfolio standard from 2015 onward. Additionally, section 9 exempts providers of new electric resources from the portfolio standard that is applicable to other providers of electric service.

Section 4.7 of this bill ~~[creates a]~~ *provides that the* portfolio standard ~~[specifically]~~ for electricity sold by providers of new electric resources *~~[.~~ ~~Sections 10.3 and 10.7 of this bill revise provisions governing providers of new electric resources to comport with the provisions of section 4.7 of this bill.]~~ is the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the Commission issues an order approving an application or request submitted by the provider of new electric resources.*

Section 11 of this bill requires the plan described in section 6 to be filed not later than January 1, 2011. Section 12 of this bill requires the Commission to adopt regulations designating renewable energy zones not later than January 1, 2010.

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

Section 1. NRS 701B.290 is hereby amended to read as follows:

701B.290 1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 [.] *and section 4.7 of this act.*

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.

Sec. 2. NRS 701B.640 is hereby amended to read as follows:

701B.640 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 *and section 4.7 of this act* equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 3. NRS 701B.870 is hereby amended to read as follows:

701B.870 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 *and section 4.7 of this act* equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

Sec. 4. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 4.3 and 4.7 of this act.

Sec. 4.3. *On or before February 15 of each odd-numbered year, the Commission shall review, approve and submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all information about any*

transmission plan proposed ~~[or]~~ by, adopted by or made known to the Commission since the last report.

Sec. 4.7. *1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order. ~~[Except as otherwise provided in subsection 2, the]~~ The portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in ~~[an amount that is :~~*

~~(a) If the order was issued during or before calendar year 2008, not less than 9 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.~~

~~(b) If the order was issued in calendar year 2009 or 2010, not less than 12 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.~~

~~(c) If the order was issued in calendar year 2011 or 2012, not less than 15 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.~~

~~(d) If the order was issued in calendar year 2013 or 2014, not less than 18 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.~~

~~(e) If the order was issued in calendar year 2015 through 2024, inclusive, not less than 20 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.~~

~~(f) If the order was issued in calendar year 2025 or any calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.~~

~~2. If the Commission, pursuant to section 10.3 of this act, approves an increase in the amount of electricity that an eligible customer may purchase from a provider of new electric resources, the Commission shall establish in the order approving the increase a new portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the orders described in this subsection and subsection 1. The new portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is not less than the~~

~~*applicable percentage in subsection 1 which corresponds to the calendar year in which the Commission issues the order approving the increase.*~~

~~*3.]*~~ *the amounts described in the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the order approving the application or request is approved.*

2. Of the total amount of electricity that a provider of new electric resources 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.]*~~ *3. If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources 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 of new electric resources generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.*

~~*[5.]*~~ *4. As used in this section:*

(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080.

(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.

Sec. 5. NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.751, inclusive, *and section 4.3 of this act* is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of $2,500,000 or more.

Sec. 6. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation ~~[, prescribe]~~ *:*

(a) Prescribe the contents of such a plan including, but not limited to, the methods or formulas which are used by the utility to:

~~[(a)]~~ *(1)* Forecast the future demands; and

~~[(b)]~~ *(2)* Determine the best combination of sources of supply to meet the demands or the best method to reduce them ~~[.]~~ *; and*

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones ~~[.]~~ *and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.*

5. As used in this section, "renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

Sec. 7. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. At the hearing any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

3. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from neighboring states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration; ~~[and]~~

(6) Other generation facilities ~~[.]~~ *; and*

(7) Other transmission facilities.

4. The Commission may give preference to the measures and sources of supply set forth in paragraph (c) of subsection 3 that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

5. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and

(b) Consider the value to the public of using water efficiently when it is determining those preferences.

6. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

Sec. 8. NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate within 135 days of the filing of the amendment.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

4. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805.

5. The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.

Sec. 8.2. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive ~~[.]~~ , *and section 4.7 of this act.*

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 *and section 4.7 of this act* equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 8.4. NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, *and section 4.7 of this act,* unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, have the meanings ascribed to them in those sections.

Sec. 8.6. NRS 704.7805 is hereby amended to read as follows:

704.7805 "Portfolio standard" means the amount of electricity that a provider must generate, acquire or save from portfolio energy systems or efficiency measures, as established by the Commission pursuant to NRS 704.7821 ~~[.]~~ *and section 4.7 of this act.*

Sec. 8.8. 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 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]~~ ~~[.]~~ ~~*[; or*~~

~~*(3) A power line which:*~~

~~*(I) Is connected to a facility or system owned, operated or controlled by a provider of electric service; and*~~

~~*(II) Is not owned, operated or controlled by the 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. 9. 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,]~~ *through* ~~*[2024,]*~~ *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 through 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]~~ *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 *:*

(1) For calendar years 2009 through ~~*[2014,]*~~ *2015, inclusive,* 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(2) For calendar year ~~*[2015]*~~ *2016 and for each calendar year thereafter, 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, 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.]~~ *4.* 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.]~~ *5.* Except as otherwise provided in subsection ~~[7,]~~ *6,* each provider shall comply with its portfolio standard during each calendar year.

~~[7.]~~ *6.* 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.]~~ *7.* 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.

8. ~~[The]~~ Except as otherwise provided in section 4.7 of this act, the provisions of this section do not apply to a provider of new electric resources as defined in NRS 704B.130.

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. 9.3. NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ *or section 4.7 of this act,* a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer; and

2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

Sec. 9.5. NRS 704.7823 is hereby amended to read as follows:

704.7823 1. Except as otherwise provided in subsection 2, any electricity generated by a provider using any system that involves drawing or creating electricity from tires must be deemed to have not come from a renewable energy system for the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[.]~~ *or section 4.7 of this act.*

2. For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ *or section 4.7 of this act,* a provider shall be deemed to have generated or acquired 0.7 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a system that utilizes a reverse polymerization process, if:

(a) The system is installed on the premises of a retail customer; and

(b) On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

3. As used in this section:

(a) "Reverse polymerization process" means a process that generates electricity from a tire that:

(1) Uses microwave reduction; and

(2) Does not involve combustion of the tire.

(b) "Tire" includes any tire for any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon land.

Sec. 9.7. NRS 704.7828 is hereby amended to read as follows:

704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive ~~[.]~~ *, and section 4.7 of this act.* The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. *If a provider exceeds the portfolio standard for any calendar year, the Commission shall authorize the provider to carry forward to subsequent calendar years for the purpose of complying with the portfolio standard for those subsequent calendar years any excess kilowatt-hours of electricity that the provider generates, acquires or saves from portfolio energy systems or efficiency measures.*

3. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the provider from the requirements of its portfolio standard pursuant to NRS 704.7821 ~~[,]~~ *or section 4.7 of this act*, the Commission ~~[may]~~ *:*

(a) Shall require the provider to carry forward to subsequent calendar years the amount of the deficiency in kilowatt-hours of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; and

(b) May impose an administrative fine against the provider or take other administrative action against the provider, or do both.

~~[3.]~~ *4.* The Commission may impose an administrative fine against a provider based upon:

(a) Each kilowatt-hour of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the Commission.

~~[4.]~~ *5.* In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the Commission.

~~[5.]~~ *6.* If the Commission imposes an administrative fine against a utility provider:

(a) The administrative fine is not a cost of service of the utility provider;

(b) The utility provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The Commission shall not allow the utility provider to recover any portion of the administrative fine from its retail customers.

~~[6.]~~ *7.* All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

Sec. 10. NRS 704.873 is hereby amended to read as follows:

704.873 If a public utility that is subject to the provisions of NRS 704.736 to 704.751, inclusive, *and section 4.3 of this act* applies to the Commission for a permit for the construction of a utility facility:

1. The Commission has exclusive jurisdiction with regard to the determination of whether a need exists for the utility facility; and

2. No other permitting entity may consider, in its review of any application for a permit, license or other approval for the construction of the utility facility, whether a need exists for the utility facility.

Sec. 10.3. ~~[Chapter 704B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Before an eligible customer may increase the amount of electricity the eligible customer purchases from a provider of new electric resources in accordance with an order of the Commission which approved an application filed pursuant to NRS 704B.310 or a request filed pursuant to NRS 704B.325, the eligible customer must apply to and receive approval from the Commission for the increase. If the Commission approves the increase, the Commission must issue a written order approving the increase.]*~~ *(Deleted by amendment.)*

Sec. 10.5. NRS 704B.320 is hereby amended to read as follows:

704B.320 1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price,

terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the best interest of the remaining customers of the electric utility for the electric utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, *and section 4.7 of this act,* to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

Sec. 10.7. ~~[NRS 704B.325 is hereby amended to read as follows:~~

~~704B.325 1. An eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources may purchase energy, capacity or ancillary services from an alternative provider without obtaining the approval of the Commission if the terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer.~~

~~2. If any terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, do not conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer, the eligible customer must obtain approval from the Commission before those nonconforming terms and conditions are enforceable.~~

~~3. If the eligible customer files a request with the Commission for approval of any nonconforming terms and conditions, the Commission shall review and make a determination concerning the request on an expedited basis. *If the Commission approves the request, the Commission must issue a written order approving the request.*~~

~~4. Notwithstanding any specific statute to the contrary, information concerning any terms and conditions of the transaction with the alternative provider that the Commission determines are commercially sensitive:~~

~~(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the affected electric utility for the purposes of carrying out the provisions of this section; and~~

~~(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.]~~ *(Deleted by amendment.)*

Sec. 11. Any public utility required to file a plan pursuant to NRS 704.741 that would not otherwise be required to file a new plan before January 1, 2011, shall submit an amendment to its existing plan by January 1, 2011, that complies with the provisions relating to a transmission plan in NRS 704.741, as amended by section 6 of this act.

Sec. 11.5. ~~[If the Public Utilities Commission of Nevada issued an order before July 1, 2009, to which paragraph (a) or (b) of subsection 1 of section 4.7 of this act applies, the Commission must revise the order, as~~

~~needed, to meet the requirements of paragraph (a) or (b) of subsection 1 of section 4.7 of this act, as applicable. For the purposes of section 4.7 of this act, a revised order issued in accordance with this section shall be deemed to have been issued on the date that the original order was issued.]~~ *(Deleted by amendment.)*

Sec. 12. The Public Utilities Commission of Nevada shall, not later than January 1, 2010, adopt regulations that designate renewable energy zones as defined in NRS 704.741, as amended by section 6 of this act.

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on June 30, 2011.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 801 to Assembly Bill No. 387 amends portions of the bill relating to providers of new electric resources. The amendment also requires the Public Utilities Commission of Nevada to consider whether an integrated resource plan adequately demonstrates the economic and environmental benefits to the State and to the customers of the utility associated with other transmission providers.

The amendment also amends the definition of "renewable energy system" to allow purchase of renewable energy from sources located out-of-state for purposes of meeting the Renewable Portfolio Standard (RPS).

Finally, the amendment makes changes to the RPS.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 492.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 822.

"SUMMARY—Imposes certain requirements on the enactment of legislation and the provision of notice regarding certain tax abatements and exemptions. (BDR 32-602)"

"AN ACT relating to taxation; imposing certain requirements on the enactment of exemptions from property taxes and sales and use taxes; imposing certain requirements on legislation revising the authority of the Commission on Economic Development to approve abatements of taxes; requiring the Commission to notify affected political subdivisions before taking action on such abatements; requiring certain reports from the Department of Taxation; *creating a permanent Legislative Committee on Taxation and Tax Policy;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill carries out the provisions of Section 6 of Article 10 of the Nevada Constitution, which became effective on November 25, 2008, through the statutory imposition of those constitutional requirements

regarding the enactment by the Legislature of any exemptions from property taxes or sales and use taxes.

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) Sections 2 and 3 of this bill impose various requirements upon future state legislation expanding the authority of the Commission to approve any abatements of taxes and require the Department of Taxation to prepare biennial reports for the Legislature on whether the costs of such future abatements exceed the benefits thereof.

Section 4 of this bill requires the Commission on Economic Development to provide notice to affected political subdivisions at least 30 days before taking action on an application for any abatement of taxes imposed on a business. Section 5 of this bill repeals various provisions which partially duplicate the provisions of section 4.

Sections 7 to 12, inclusive, of this bill create a permanent Legislative Committee on Taxation and Tax Policy to review and evaluate issues related to taxation in this State.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *In accordance with Section 6 of Article 10 of the Constitution of the State of Nevada:*

1. The Legislature shall not enact an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail unless the Legislature finds that the exemption:

(a) Will achieve a bona fide social or economic purpose and the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

(b) Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

2. In enacting an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail, the Legislature shall ensure that the requirements for claiming the exemption are as similar as practicable for similar classes of taxpayers.

Sec. 3. *1. Any state legislation enacted on or after July 1, 2009, which authorizes or requires the Commission on Economic Development to*

approve any abatement of taxes or increases the amount of any abatement of taxes which the Commission is authorized or required to approve:

(a) Expires by limitation 10 years after the effective date of that legislation.

(b) Does not apply to:

(1) Any taxes imposed pursuant to NRS 374.110 or 374.190; or

(2) Any entity that receives:

(I) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(II) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(c) Requires each recipient of the abatement to submit to the Department, on or before the last day of each even-numbered year, a report on whether the recipient is in compliance with the terms of the abatement. The Department shall establish a form for the report and may adopt such regulations as it determines to be appropriate to carry out this paragraph. The report must include, without limitation:

(1) The date the recipient commenced operation in this State;

(2) The number of employees actually employed by the recipient and the average hourly wage of those employees;

(3) An accounting of any fees paid by the recipient to the State and to local governmental entities;

(4) An accounting of the property taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(5) An accounting of the sales and use taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(6) An accounting of the total capital investment made in connection with the project to which the abatement applies; and

(7) An accounting of the total investment in personal property made in connection with the project to which the abatement applies.

2. On or before January 15 of each odd-numbered year, the Department shall:

(a) Based upon the information submitted to the Department pursuant to paragraph (c) of subsection 1, prepare a written report of its findings regarding whether the costs of the abatement exceed the benefits of the abatement; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 4. *1. If the Commission on Economic Development receives an application for any abatement of taxes imposed on a business, the Commission shall, at least 30 days before the meeting at which the Commission takes any action on the application, provide notice of the application to:*

(a) 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 business is or will be located; and

(b) The governing body of any other political subdivision that could be affected by the abatement.

2. The notice required by this section must set forth the date, time and location of the meeting at which the Commission on Economic Development will consider the application.

3. The Commission on Economic Development shall adopt regulations relating to the notice required by this section.

Sec. 5. 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 taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 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,]~~ *4,* 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.]~~ *8*.

(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.]~~ *8*.

(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.]~~ *8*.

(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.]~~ *8*.

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.

~~[6.]~~ *5.* 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.]~~ *6.* 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.]~~ *7.* A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection ~~[7]~~ *6* 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.]~~ *8.* The Commission on Economic Development:

(a) Shall adopt regulations relating to ~~[:~~

~~(1) The]~~ *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 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.]~~ *9.* 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.]~~ *10.* 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.

Sec. 6. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 12, inclusive, of this act.

Sec. 7. As used in sections 7 to 12, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Taxation and Tax Policy created by section 8 of this act.

Sec. 8. 1. There is hereby created a Legislative Committee on Taxation and Tax Policy consisting of eight legislative members. The membership of the Committee consists of:

(a) The immediate past Chairman of the Senate Committee on Taxation;

(b) The immediate past Chairman of the Assembly Committee on Taxation;

(c) Three members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party; and

(d) Three members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

2. The immediate past Chairman of the Senate Committee on Taxation is the Chairman of the Committee for the period ending with the convening of each odd-numbered session of the Legislature. The immediate past Chairman of the Assembly Committee on Taxation is the Chairman of the Committee during the next legislative interim, and the chairmanship alternates between the Houses of the Legislature according to this pattern.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

4. Vacancies on the Committee must be filled in the same manner as original appointments.

5. The Committee shall report annually to the Legislative Commission concerning its activities and recommendations.

Sec. 9. 1. The members of the Legislative Committee on Taxation and Tax Policy shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

2. The Director of the Legislative Counsel Bureau or a person he designates shall act as the nonvoting recording Secretary.

3. The Committee shall adopt rules for its own management and government.

4. Except as otherwise provided in this subsection, five members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly serving on the Committee.

5. Except during a regular or special session of the Legislature, each member of the Committee is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a meeting of the Committee or is otherwise engaged in the business of the Committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided for state officers and employees generally. The salaries and expenses of the Committee must be paid from the Legislative Fund.

Sec. 10. 1. The Legislative Committee on Taxation and Tax Policy shall review and evaluate:

(a) Taxes imposed in this State, the rates of such taxes, tax exemptions, tax abatements and any specified use of revenues from taxes; and

(b) The efficiency and effectiveness of the collection and administration of taxes in this State.

2. The Committee may:

(a) Conduct investigations and hold hearings in connection with its review and study;

(b) Apply for any available grants and accept any gifts, grants or donations and use any such gifts, grants or donations to aid the Committee in carrying out its duties pursuant to sections 7 to 12, inclusive, of this act;

(c) Direct the Legislative Counsel Bureau to assist in its research, investigations, review and study; and

(d) Recommend to the Legislature, as a result of its review and study, any appropriate legislation.

3. The Committee may appoint a technical advisory group to assist the Committee. Members of any technical advisory group serve without compensation.

Sec. 11. 1. In conducting the investigations and hearings of the Legislative Committee on Taxation and Tax Policy:

(a) Any member of the Committee may administer oaths.

(b) The Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the

manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books, papers and documents.

2. If any witness refuses to attend or testify or produce any books, papers and documents as required by the subpoena, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books, papers and documents;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books, papers and documents required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books, papers and documents before the Committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books, papers or documents before the Committee. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books, papers or documents. Failure to obey the order constitutes contempt of court.

Sec. 12. Each witness who appears before the Legislative Committee on Taxation and Tax Policy by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Chairman of the Committee.

~~[Sec. 6.]~~ *Sec. 13.* This act becomes effective on July 1, 2009.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

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

The amendment makes a good bill, one that will help to keep track of abatements and exemptions. These have been slipping through our fingers at the state and local levels for a long time. A permanent Legislative Committee on Taxation and Tax Policy is created through this amendment. The amendment specifies who will be in this Committee and how they will be appointed and what they will do.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

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

Motion carried.

Senate in recess at 1:11 p.m.

SENATE IN SESSION

At 1:30 p.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 299.

Bill read third time.

Roll call on Senate Bill No. 299:

YEAS—20.

NAYS—Carlton.

Senate Bill No. 299 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 Senator Cegavske:

Amendment No. 851.

"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 for the construction and installation of certain renewable energy projects and energy efficiency 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 1.19 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 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 11.25 of this bill requires the Commission to adopt regulations requiring electric utilities to provide certain information to retail customers concerning the safe disposal and recycling of electronic waste, electrical systems and other waste, including, without limitation, compact fluorescent light bulbs.

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)

Sections 18.1-18.9 of this bill authorize the governing body of a county, city or town to establish an improvement district for the construction and installation of a renewable energy project or an energy efficiency 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)

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

Section 1. (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 ~~[.]~~ *; and*

(d) A program for the safe disposal and recycling of electronic waste, electrical equipment and other waste, including, without limitation, a program for the safe disposal and recycling of compact fluorescent light bulbs.

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 ~~[.]~~ *; and*

(4) The recycling of electronic waste, electrical equipment and other waste, including, without limitation, a program for the safe disposal and recycling of compact fluorescent light bulbs.

(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 and recycling 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. 1.61. 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 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 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.

7. If the capacity allocated for a program year is not fully subscribed by participants, the 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. 11.2. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 11.25 and 11.3 of this act.

Sec. 11.25. 1. The Commission shall adopt regulations requiring each electric utility to disclose to its retail customers information about the safe disposal and recycling of electronic waste, electrical systems and other waste, including, without limitation, compact fluorescent light bulbs, in accordance with the comprehensive state energy plan established by the Nevada Energy Commissioner pursuant to NRS 701.190. The disclosure must:

(a) Be in a standard, uniform format established by the Commission by regulation; and

(b) Be included:

(1) At least two times each calendar year, as an insert in the bills that the electric utility sends to its retail customers; and

(2) If the electric utility maintains a website on the Internet or any successor to the Internet, on that website.

2. 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. (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]*~~ *18.2 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 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. (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 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 Cegavske moved the adoption of the amendment.

Remarks by Senators Cegavske and Carlton.

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

SENATOR CEGAVSKE:

Amendment No. 851 adds, on pages 10 and 11, section 1.55, a requirement that a comprehensive state plan for energy prepared by the Nevada Energy Commissioner provides for the promotion of a program for safe disposal in recycling of electronic waste including televisions, computer monitors, cell phones and similar items, electrical equipment and other waste including compact-florescent light bulbs. The State Plan for Energy must also include provisions for grants and other money to establish recycling programs. Amendment No. 851, on page 10, also requires that the State's energy plan include the promotion of a curriculum of recycling education in grades K-12.

SENATOR CARLTON:

Thank you, Mr. President. There has been much discussion about costs in the last few months. Has the cost to the ratepayer been discussed and how much will that be.

SENATOR CEGAVSKE:

Yes. I factored the cost to the ratepayer. There is none. In preparing this amendment, I explained to staff this had to be at no cost to the taxpayer and was told that there would be no cost.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 370.
Bill read third time.
Roll call on Senate Bill No. 370:
YEAS—21.
NAYS—None.

Senate Bill No. 370 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 395.
Bill read third time.
Roll call on Senate Bill No. 395:
YEAS—21.
NAYS—None.

Senate Bill No. 395 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 26.
Bill read third time.
Roll call on Assembly Bill No. 26:
YEAS—21.
NAYS—None.

Assembly Bill No. 26 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 56.
Bill read third time.
Roll call on Assembly Bill No. 56:
YEAS—21.
NAYS—None.

Assembly Bill No. 56 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 87.
Bill read third time.
Roll call on Assembly Bill No. 87:
YEAS—21.
NAYS—None.

Assembly Bill No. 87 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 89.
Bill read third time.
Roll call on Assembly Bill No. 89:
YEAS—21.
NAYS—None.

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

Assembly Bill No. 129.
Bill read third time.
Roll call on Assembly Bill No. 129:
YEAS—21.
NAYS—None.

Assembly Bill No. 129 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 179.
Bill read third time.
Roll call on Assembly Bill No. 179:
YEAS—21.
NAYS—None.

Assembly Bill No. 179 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 199.
Bill read third time.
Roll call on Assembly Bill No. 199:
YEAS—21.
NAYS—None.

Assembly Bill No. 199 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 208.
Bill read third time.
Roll call on Assembly Bill No. 208:
YEAS—21.
NAYS—None.

Assembly Bill No. 208 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 220.
Bill read third time.
Roll call on Assembly Bill No. 220:
YEAS—21.
NAYS—None.

Assembly Bill No. 220 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 263.
Bill read third time.
Roll call on Assembly Bill No. 263:
YEAS—21.
NAYS—None.

Assembly Bill No. 263 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 267.
Bill read third time.
Roll call on Assembly Bill No. 267:
YEAS—21.
NAYS—None.

Assembly Bill No. 267 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 325.
Bill read third time.
Roll call on Assembly Bill No. 325:
YEAS—21.
NAYS—None.

Assembly Bill No. 325 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 326.
Bill read third time.
Roll call on Assembly Bill No. 326:
YEAS—21.
NAYS—None.

Assembly Bill No. 326 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 335.

Bill read third time.

The following amendment was proposed by Senator Care:

Amendment No. 845.

"SUMMARY—Makes various changes relating to *nuisances and* criminal gangs. (BDR ~~[15]~~ *3* -85)"

"AN ACT relating to criminal gangs; ~~[enhancing penalties and providing for the suspension of drivers' licenses for certain crimes committed to promote criminal gang activity;]~~ making various changes relating to nuisances and criminal gangs; ~~[providing penalties;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Under existing law, a person who commits a felony to promote the activities of a criminal gang is subject to an additional penalty under certain circumstances. (NRS 193.168) Section 1 of this bill provides that if a person commits a crime normally punishable as a misdemeanor or gross misdemeanor to promote the activities of a criminal gang and if the person has previously been convicted of at least three similar violations, then: (1) the person may be found guilty of a category E felony; and (2) the driver's license of the person may be suspended for a certain period. Section 2 of this bill clarifies that if a person is subject to the increased penalty provided in section 1, the person is not subject to certain other additional penalties. (NRS 193.169)]~~

Existing law provides that certain places used for certain illegal activities constitute a private nuisance, which creates civil liability and allows any person whose property is affected to bring a civil action to abate the nuisance and recover damages. (NRS 40.140) Section 3 of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a private nuisance. Existing law also provides that certain places used for certain illegal activities constitute a public nuisance, and any person responsible for such a public nuisance who does not abate the public nuisance is guilty of a misdemeanor. (NRS 202.450, 202.470) Section 5 of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a public nuisance.

Sections 6 and 7 of this bill authorize the board of county commissioners of a county and the governing body of a city to adopt an ordinance authorizing the filing of a civil action, under certain circumstances, to: (1) enjoin the activities of a specific member of a criminal gang; and (2) recover money damages, attorney's fees and costs against a member of a criminal gang and the owner of a business or place that constitutes a nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of,

crimes by the criminal gang. Sections 6 and 7 also provide that a member of a criminal gang who is subject to an injunction and who knowingly and intentionally commits a material violation of that injunction is guilty of a misdemeanor.

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

Section 1. ~~[Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in NRS 193.169, if:*~~

~~*(a) A person commits a violation of a statute that is punishable as a misdemeanor or gross misdemeanor pursuant to that statute;*~~

~~*(b) The person commits that violation knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and*~~

~~*(c) The person has previously been convicted of at least three similar violations,*~~

~~*→ the person may be deemed to be guilty of a category E felony and may be punished as provided in NRS 193.130.*~~

~~*2. If a person is punished pursuant to this section, the court may, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court may issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. If the court issues an order pursuant to this subsection, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses, together with a copy of the order.*~~

~~*3. The court shall not punish a person pursuant to this section unless:*~~

~~*(a) The indictment, information or complaint charging the person with the violation specifically indicates that the State is seeking to punish the person pursuant to this section and specifically alleges that the violation was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and*~~

~~*(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.*~~

~~*4. In any proceeding to punish a person pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:*~~

~~*(a) Characteristics of persons who are members of criminal gangs;*~~

~~*(b) Specific rivalries between criminal gangs;*~~

~~*(c) Common practices and operations of criminal gangs and the members of those gangs;*~~

~~*(d) Social customs and behavior of members of criminal gangs;*~~

~~*(e) Terminology used by members of criminal gangs;*~~

~~*(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and*~~

~~*(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.*~~

~~*5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.]*~~ *(Deleted by amendment.)*

Sec. 2. ~~[NRS 193.169 is hereby amended to read as follows:~~

~~193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection 3 of NRS 193.161, subsection 3 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~*3. A person who is punished pursuant to section 1 of this act must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.*~~

~~*4.* This section does not:~~

~~(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1, *2* or [2.] *3.*~~

~~(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1, *2* or [2] *3* and introducing evidence to prove the alternative allegations.]~~ *(Deleted by amendment.)*

Sec. 3. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section:

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog; ~~[or]~~

(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog ~~[.]~~ *; or*

(d) A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang,

➥ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

➥ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section:

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) *"Criminal gang" has the meaning ascribed to it in NRS 193.168.*

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(c)]~~ *(d)* "Shooting range" means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the

use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away; ~~[or]~~

(f) *That is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang; or*

(g) Where vagrants resort,

➥ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

➥ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

➥ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

7. As used in this section:

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) *"Criminal gang" has the meaning ascribed to it in NRS 193.168.*

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(c)]~~ *(d)* "Shooting range" has the meaning ascribed to it in NRS 40.140.

Sec. 6. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of any other law or ordinance, each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:

(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the county.

(b) The recovery of money damages, attorney's fees and costs from:

(1) Any member of a criminal gang that is engaging in criminal activities within the county; and

(2) The owner of a building or place located within the county that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.

2. Any money damages awarded in an action brought pursuant to this section must be:

(a) Paid by, or collected from:

(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;

(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or

(3) Any combination of the assets described in subparagraphs (1) and (2).

(b) Deposited into a separate, segregated fund in the county treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.

3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.

4. An action may not be brought pursuant to this section against:

(a) Any governmental entity; or

(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.

5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

Sec. 7. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of any other law or ordinance, each governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:

(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the city.

(b) The recovery of money damages, attorney's fees and costs from:

(1) Any member of a criminal gang that is engaging in criminal activities within the city; and

(2) The owner of a building or place located within the city that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.

2. Any money damages awarded in an action brought pursuant to this section must be:

(a) Paid by, or collected from:

(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;

(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or

(3) Any combination of the assets described in subparagraphs (1) and (2).

(b) Deposited into a separate, segregated fund in the city treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.

3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.

4. An action may not be brought pursuant to this section against:

(a) Any governmental entity; or

(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.

5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

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 bill came out of the committee as a "do pass" because we could not agree about the language to amend the bill. This amendment restores the bill to the form that it originally was as a first reprint from the Assembly.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 350.
Bill read third time.
Roll call on Assembly Bill No. 350:
YEAS—21.
NAYS—None.

Assembly Bill No. 350 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 360.
Bill read third time.
Roll call on Assembly Bill No. 360:
YEAS—21.
NAYS—None.

Assembly Bill No. 360 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 402.
Bill read third time.
Roll call on Assembly Bill No. 402:
YEAS—21.
NAYS—None.

Assembly Bill No. 402 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 414.
Bill read third time.
Roll call on Assembly Bill No. 414:
YEAS—21.
NAYS—None.

Assembly Bill No. 414 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 463.
Bill read third time.
Roll call on Assembly Bill No. 463:
YEAS—21.
NAYS—None.

Assembly Bill No. 463 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 487.
Bill read third time.
Roll call on Assembly Bill No. 487:
YEAS—21.
NAYS—None.

Assembly Bill No. 487 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 491.
Bill read third time.
Roll call on Assembly Bill No. 491:
YEAS—16.
NAYS—Amodei, Cegavske, McGinness, Townsend, Washington—5.

Assembly Bill No. 491 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 493.
Bill read third time.
Roll call on Assembly Bill No. 493:
YEAS—13.
NAYS—Amodei, Cegavske, Hardy, McGinness, Nolan, Raggio, Townsend, Washington—8.

Assembly Bill No. 493 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 500.
Bill read third time.
Roll call on Assembly Bill No. 500:
YEAS—21.
NAYS—None.

Assembly Bill No. 500 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 125.
The following Assembly amendment was read:
Amendment No. 645.
"SUMMARY—Makes changes relating to personal identifying information. (BDR 15-481)"
"AN ACT relating to crimes; prohibiting certain acts relating to radio frequency identification documents; revising the provisions relating to certain

offenses involving the possession or use of personal identifying information; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill prohibits a person from knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act: (1) capturing, storing or reading information from the radio frequency identification document of another person without the knowledge and consent of the other person; or (2) retaining, using or disclosing information that the person knows to have been obtained from the radio frequency identification document of another person without the knowledge and consent of the other person. This new crime is punishable as a category C felony.

Existing law establishes an exception to the statutory prohibitions relating to the possession or use of the personal identifying information of another person by providing that those prohibitions do not apply to a person who, without the intent to defraud or commit an unlawful act, possesses or uses the personal identifying information of another person pursuant to a financial transaction entered into with an authorized user of a payment card who has given permission for the financial transaction. (NRS 205.4655) Section 5 of this bill deletes from this exception the requirement that such an authorized user of a payment card must have given permission for the financial transaction.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Except as otherwise provided in this section, a]~~ A person shall not knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act:

(a) Capture, store or read information from the radio frequency identification document of another person without the other person's knowledge and prior consent; or

(b) Retain, use or disclose information that the person knows to have been obtained from the radio frequency identification document of another person without the other person's knowledge and prior consent.

2. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. ~~[The provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety pursuant to a court order.~~

~~*4. The provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person by a health care professional or law enforcement personnel for the purpose of:*~~

~~*(a) Locating a person or providing triage or medical care during a disaster; or*~~

~~*(b) Providing emergency medical treatment to a person who is unable to give consent because of incapacitation or acute medical distress.*~~

~~*5. Except as otherwise provided in this subsection, the provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person, or information derived therefrom, in the course of an act of security research, security experimentation or scientific inquiry regarding security that is pursued in good faith to increase the security and privacy of information stored on radio frequency identification documents, including, without limitation, an act that is useful in identifying and analyzing security flaws and vulnerabilities. The provisions of this subsection do not authorize:*~~

~~*(a) The disclosure of information from the radio frequency identification document of another person without his consent to any other person; or*~~

~~*(b) The sale or use of information from the radio frequency identification document of another person for any purpose that is not related to bona fide research, experimentation or scientific inquiry designed to increase security.*~~

~~*6.*~~*1* *As used in this section:*

(a) "Identity theft" means a violation of the provisions of NRS 205.463, 205.464 or 205.465.

(b) "Radio frequency identification" means the use of electromagnetic radiating waves or reactive field coupling in the radio frequency portion of the spectrum to read or communicate personal identifying information to or from a radio frequency identification document through a variety of modulation and encoding schemes.

(c) "Radio frequency identification document" means any document containing data which is issued to an individual and which that individual, and only that individual, uses alone or in conjunction with any other information for the primary purpose of establishing his identity.

Sec. 2. NRS 205.461 is hereby amended to read as follows:

205.461 As used in NRS 205.461 to 205.4657, inclusive, *and section 1 of this act,* unless the context otherwise requires, the words and terms defined in NRS 205.4611 to 205.4629, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 205.46517 is hereby amended to read as follows:

205.46517 In any case in which a person is convicted of violating any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act,* the court records must clearly reflect that the violation was committed by the person convicted of the violation and not by the person whose personal identifying information forms a part of the violation.

Sec. 4. NRS 205.4653 is hereby amended to read as follows:

205.4653 A person who violates any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act* may be prosecuted for the violation whether or not the person whose personal identifying information forms a part of the violation:

1. Is living or deceased during the course of the violation or the prosecution.

2. Is an artificial person.

3. Suffers financial loss or injury as the result of the violation.

Sec. 5. NRS 205.4655 is hereby amended to read as follows:

205.4655 The provisions of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act* do not apply to any person who, without the intent to defraud or commit an unlawful act, possesses or uses any personal identifying information of another person:

1. In the ordinary course of his business or employment; or

2. Pursuant to a financial transaction entered into with an authorized user of a payment card . ~~[who has given permission for the financial transaction.]~~

Sec. 6. NRS 205.4657 is hereby amended to read as follows:

205.4657 1. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act,* the State is not required to establish and it is no defense that:

(a) An accessory has not been convicted, apprehended or identified; or

(b) Some of the acts constituting elements of the crime did not occur in this State or that where such acts did occur they were not a crime or elements of a crime.

2. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act,* the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which:

(a) The person whose personal identifying information forms a part of the violation currently resides or is found; or

(b) Any act constituting an element of the crime occurred, regardless of whether the defendant was ever physically present in that jurisdiction.

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 125.

Remarks by Senator Care.

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

The Judiciary Committee has agreed to concur with this amendment. The sponsor agreed. The Assembly deleted some provisions in the bill that were superfluous.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 54, 60, 80, 130, 135, 147, 225, 397, 467, 478, 483, 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 Government Affairs, to which was rereferred Assembly Bill No. 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 19, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 534, 549, 555, 556, 560.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 534.

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

Motion carried.

Assembly Bill No. 549.

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

Motion carried.

Assembly Bill No. 555.

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

Motion carried.

Assembly Bill No. 556.

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

Motion carried.

Assembly Bill No. 560.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 13.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 803.

"SUMMARY—Revises provisions governing expenditures by school districts for textbooks, instructional supplies and instructional hardware. (BDR 34-295)"

"AN ACT relating to education; authorizing the board of trustees of a school district to request a waiver from the required minimum expenditure

for textbooks, instructional supplies and instructional hardware during an economic hardship; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Department of Education to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) Section 1 of this bill authorizes a school district to request a waiver from all or a portion of the minimum expenditure requirements when a school district experiences an economic hardship. A request for a waiver must be reviewed by the Department of Education and the State Board of Examiners. The Interim Finance Committee makes the final determination regarding whether to grant a waiver. A school district that is granted a waiver is prohibited from using the money for collective bargaining with its licensed employees or for an adjustment of salaries and benefits of district employees.

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

Section 1. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district that experiences an economic hardship may submit a written request to the Department on a form prescribed by the Department for a waiver of all or a portion of the amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware pursuant to NRS 387.206 for the fiscal year.

2. Upon receipt of a written request pursuant to subsection 1, the Department shall consider the request and determine whether an economic hardship exists for the school district. The Department may request additional information from the school district in making the determination. If the Department determines that an economic hardship exists for the school district, the Department shall forward the request to the Interim Finance Committee and the State Board of Examiners, including the basis for its determination and any recommendations of the Department for the amount of a waiver.

3. Upon receipt of a written request from the Department pursuant to subsection 2, the State Board of Examiners shall consider the request and determine whether an economic hardship exists for the school district. If the State Board of Examiners determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The State Board of Examiners may request additional information from the school district in making the determination. If the State Board of Examiners determines that an economic hardship exists for the school district and that a waiver from all or a portion of the expenditure requirements is justified, the State Board of Examiners shall

forward the request to the Interim Finance Committee, including the basis for its determination and its recommendation for the amount of the waiver. The Interim Finance Committee is not bound to follow the recommendations of the State Board of Examiners.

4. Upon receipt of a written request from the State Board of Examiners pursuant to subsection 3, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district. If the Interim Finance Committee determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The Interim Finance Committee may request additional information from the school district in making the determination. If the Interim Finance Committee grants a waiver, the Committee shall by resolution set forth the:

(a) Grounds for its determination;

(b) Amount of the waiver; and

(c) Period for which the waiver is effective.

5. The board of trustees of a school district that is granted a waiver by the Interim Finance Committee pursuant to this section shall, upon expiration of the period for which the waiver is granted, provide a written accounting to the Interim Finance Committee and the Department that includes a:

(a) Reconciliation of the revenue and expenditures with the projections of revenue and expenditures that were used to determine whether an economic hardship existed for the school district; and

(b) Description of how the money from the waiver was used.

6. If the Interim Finance Committee grants a waiver pursuant to this section and subsequently the economic hardship to the school district is mitigated because the actual revenue attributable to the school district exceeds projections or the actual expenses incurred by the school district are less than anticipated:

(a) The amount of the waiver must be reduced accordingly by the school district; and

(b) The amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware in the next fiscal year, as determined pursuant to subsection 1 of NRS 387.206, must be adjusted accordingly.

7. ~~[A]~~ If a school district ~~[that]~~ is granted a waiver pursuant to this section, ~~[shall not use]~~ the money that would have otherwise been expended by the school district to meet the requirements of NRS 387.206 for the fiscal year : ~~[to:]~~

(a) ~~[Settle]~~ May not be considered as financial ability to pay for the purposes of negotiation or arbitration regarding salaries and benefits.

(b) Must not be used to settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district and the school district.

~~*[(b) Adjust]*~~

(c) Must not be used to adjust the schedules of salaries and benefits of the employees of the school district.

8. For purposes of this section, an economic hardship exists for a school district if:

(a) Projections of revenue do not meet or exceed the revenue anticipated at the time the basic support guarantees are established for the fiscal year pursuant to NRS 387.122; or

(b) The school district incurs unforeseen expenses, including, without limitation, expenses related to a natural disaster.

Sec. 2. NRS 387.206 is hereby amended to read as follows:

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

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for that fiscal year. *If a school district is granted a waiver pursuant to section 1 of this act, the Department shall provide written notice to the school district within 30 days after the Interim Finance Committee grants the waiver setting forth the revised amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for the fiscal year.*

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

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

minimum required combined expenditure set forth in the notice *or the revised notice, as applicable,* provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

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

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

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

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

Senator Mathews moved the adoption of the amendment.

Remarks by Senators Mathews and Cegavske.

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

SENATOR MATHEWS:

This amendment authorizes school districts to request a waiver for a portion of minimum expenditures for textbooks.

SENATOR CEGAVSKE:

I wanted to thank the Majority Leader for giving me the opportunity to receive the clarification I needed on the issue of accountability.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 188.

Bill read third time.

Roll call on Senate Bill No. 188:

YEAS—21.

NAYS—None.

Senate Bill No. 188 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 283.

The following Assembly amendment was read:

Amendment No. 674.

"SUMMARY—Revises provisions governing the rights of domestic partners. (BDR 11-1100)"

"AN ACT relating to domestic relations; providing for the registration and dissolution of domestic partnerships in the State of Nevada; setting forth the rights and responsibilities attendant to such partnerships; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes a domestic partnership as a new type of civil contract recognized in the State of Nevada. Under the provisions of this bill, with certain exceptions, domestic partners have the same rights, protections, benefits, responsibilities, obligations and duties as do parties to any other civil contract created pursuant to title 11 of NRS. This bill also clarifies that a domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.

Section 8 of this bill sets forth that no public *or private* employer in this State is required to provide health care benefits to or for the domestic partner of an officer or employee. Section 8 also clarifies that any public or private employer in this State may voluntarily provide health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.

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

Section 1. Title 11 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~[12,]~~ *13,* inclusive, of this act.

Sec. 2. *This chapter may be cited as the Nevada Domestic Partnership Act.*

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

Sec. 4. *"Domestic partners" means persons who:*

1. Have registered a valid domestic partnership pursuant to section 6 of this act; and

2. Have not terminated that domestic partnership pursuant to section 9 of this act.

Sec. 5. *"Domestic partnership" means the social contract between two persons that is described in section 6 of this act.*

Sec. 6. *1. A valid domestic partnership is registered in the State of Nevada when two persons who satisfy the requirements of subsection 2:*

(a) File with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that both persons:

(1) Have chosen to share one another's lives in an intimate and committed relationship of mutual caring; and

(2) Desire of their own free will to enter into a domestic partnership; and

(b) Pay to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of an amount set by the Secretary of State to estimate:

(1) The cost incurred by the Secretary of State to issue the Certificate described in subsection 3; and

(2) Any other associated administrative costs incurred by the Secretary of State.

➥ The Office of the Secretary of State shall account for the fees received pursuant to paragraph (b) separately, and use those fees, and any interest and income earned on those fees, solely to pay for expenses related to administering the registration of domestic partnerships pursuant to this chapter, including, without limitation, the cost of materials and technology necessary to process and record the filing.

2. To be eligible to register pursuant to subsection 1, two persons desiring to enter into a domestic partnership must furnish proof satisfactory to the Office of the Secretary of State that:

(a) Both persons have a common residence;

(b) ~~[Neither]~~ Except as otherwise provided in section 10 of this act, neither person is married or a member of another domestic partnership;

(c) The two persons are not related by blood in a way that would prevent them from being married to each other in this State;

(d) Both persons are at least 18 years of age; and

(e) Both persons are competent to consent to the domestic partnership.

3. The Office of the Secretary of State shall issue a Certificate of Registered Domestic Partnership to persons who satisfy the requirements of this section.

4. As used in this section:

(a) "Common residence" means a residence shared by both domestic partners on at least a part-time basis, irrespective of whether:

(1) Ownership of the residence or the right to occupy the residence is in the name of only one of the domestic partners; and

(2) One or both of the domestic partners owns or occupies an additional residence.

(b) "Residence" means any house, room, apartment, tenement or other building, vehicle, vehicle trailer, semitrailer, house trailer or boat designed or intended for occupancy as a residence.

Sec. 7. *1. Except as otherwise provided in section 8 of this act:*

(a) Domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon spouses.

(b) Former domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court

rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon former spouses.

(c) A surviving domestic partner, following the death of the other partner, has the same rights, protections and benefits, and is subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.

(d) The rights and obligations of domestic partners with respect to a child of either of them are the same as those of spouses. The rights and obligations of former or surviving domestic partners with respect to a child of either of them are the same as those of former or surviving spouses.

(e) To the extent that provisions of Nevada law adopt, refer to or rely upon provisions of federal law in a way that otherwise would cause domestic partners to be treated differently from spouses, domestic partners must be treated by Nevada law as if federal law recognized a domestic partnership in the same manner as Nevada law.

(f) Domestic partners have the same right to nondiscriminatory treatment as that provided to spouses.

(g) A public agency in this State shall not discriminate against any person or couple on the basis or ground that the person is a domestic partner rather than a spouse or that the couple are domestic partners rather than spouses.

(h) The provisions of this chapter do not preclude a public agency from exercising its regulatory authority to carry out laws providing rights to, or imposing responsibilities upon, domestic partners.

(i) Where necessary to protect the rights of domestic partners pursuant to this chapter, gender-specific terms referring to spouses must be construed to include domestic partners.

(j) For the purposes of the statutes, administrative regulations, court rules, government policies, common law and any other provision or source of law governing the rights, protections and benefits, and the responsibilities, obligations and duties of domestic partners in this State, as effectuated by the provisions of this chapter, with respect to:

(1) Community property;

(2) Mutual responsibility for debts to third parties;

(3) The right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership; and

(4) Other rights and duties as between the partners concerning ownership of property,

➥ any reference to the date of a marriage shall be deemed to refer to the date of registration of the domestic partnership.

2. As used in this section, "public agency" means an agency, bureau, board, commission, department or division of the State of Nevada or a political subdivision of the State of Nevada.

Sec. 8. *1. The provisions of this chapter do not require a public or private employer in this State to provide health care benefits to or for the domestic partner of an officer or employee.*

2. Subsection 1 does not prohibit any public or private employer from voluntarily providing health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.

Sec. 9. *1. Except as otherwise provided in subsection 2, domestic partners who wish to terminate a domestic partnership registered pursuant to section 6 of this act must follow the procedures set forth in chapter 125 of NRS.*

2. If a domestic partnership meets the criteria specified in subsection 3, domestic partners in a domestic partnership registered pursuant to section 6 of this act may terminate the domestic partnership by:

(a) Filing with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that both persons have chosen of their own free will to terminate the domestic partnership; and

(b) Paying to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of any administrative costs incurred by the Secretary of State.

3. For a domestic partnership to qualify for the simplified termination proceedings set forth in subsection 2, all of the following conditions must exist at the time of the filing pursuant to that subsection:

(a) The domestic partnership has been registered for 5 years or less.

(b) There are no minor children of the relationship of the parties born before or during the domestic partnership or adopted by the parties during the domestic partnership and no female member of the domestic partnership, to her knowledge, is pregnant, or the parties have executed an agreement as to the custody of any children and setting forth the amount and manner of their support.

(c) There is no community or joint property or the parties have executed an agreement setting forth the division of community property and the assumption of liabilities of the community, if any, and have executed any deeds, certificates of title, bills of sale or other evidence of transfer necessary to effectuate the agreement.

(d) The parties waive any rights to support or the parties have executed an agreement setting forth the amount and manner of support.

(e) The parties waive any right to the conduct of more comprehensive proceedings pursuant to chapter 125 of NRS.

Sec. 10. *A legal union of two persons, other than a marriage as recognized by the Nevada Constitution, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership as defined in this chapter, must be recognized as a valid domestic partnership in this State regardless of whether the union bears the name of a domestic*

partnership. For a legal union that was validly formed in another jurisdiction to be recognized as a valid domestic partnership in this State, the parties desiring such recognition must comply with the provisions of section 6 of this act.

Sec. 11. *A domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.*

Sec. 12. The provisions of this chapter do not require the performance of any solemnization ceremony to enter into a binding domestic partnership contract. It is left to the dictates and conscience of partners entering into a domestic partnership to determine whether to seek a ceremony or blessing over the domestic partnership and to the dictates of each religious faith to determine whether to offer or allow a ceremony or blessing of domestic partnerships. Providing recognition to partnerships through a domestic partnership system in no way interferes with the right of each religious faith to choose freely to whom to grant the religious status, sacrament or blessing of marriage under the rules or practices of that faith.

~~[Sec. 12.]~~ *Sec. 13. The provisions of this chapter must be construed liberally to the effect of resolving any doubt or question in favor of finding that a domestic partnership is a valid civil contract entitled to be treated in all respects under the laws of this State as any other civil contract created pursuant to title 11 of NRS would be treated.*

Senator Carlton moved that the Senate concur in the Assembly amendment to Senate Bill No. 283.

Remarks by Senator Carlton.

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

We believe the bill is a better bill coming back to us from the Assembly. It adds the term "or private" to the employers. It specifies particulars as far as to how the Office of the Secretary of State addresses it. There is new language about solemnization ceremonies in the State as they relate to domestic partnerships. We have addressed all of the concerns.

Motion carried by a constitutional majority.

Bill ordered enrolled.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering various revenue plans at 6 p.m., with Senator Horsford as Chair and Senator Mathews as Vice Chair.

Motion carried.

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

Senate in recess at 2 p.m.

IN COMMITTEE OF THE WHOLE

At 9:48 p.m.
Senator Horsford presiding.
Various revenue plans considered.
The Committee of the Whole was addressed by Senator Horsford; Senator Lee and Senator Wiener.

Senator Horsford called the meeting to order to introduce BDR 32-1320.
Senator Lee moved to introduce BDR 32-1320.
Senator Wiener seconded the motion.
Motion carried unanimously.

On the motion of Senator Wiener and seconded by Senator Woodhouse the Committee did rise and return to the Senate.
Motion carried.

SENATE IN SESSION

At 9:50 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. 140, 141, 151, 215, 513, 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 Finance, to which were referred Senate Bill No. 426; Assembly Bill No. 488, 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 Finance, to which was rereferred Senate Bill No. 242, 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 Natural Resources, to which was referred Assembly Bill No. 246, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Senate Bill No. 429—AN ACT relating to state financial administration; increasing the state business license fee; revising the rate of the payroll tax imposed on certain businesses other than financial institutions; revising the provisions governing the calculation of governmental services taxes due annually for used vehicles and allocating a portion of the proceeds of the basic governmental services tax to the State General Fund; increasing the rate

of the Local School Support Tax; and providing other matters properly relating thereto.

Senator Horsford moved that the bill be referred to the Committee of the Whole.

Motion carried.

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by: Senator Horsford and Assemblywoman Buckley.
For: Senate Bill No. 429
To Waive:
Subsections 1 of Joint Standing Rule No. 14, Joint Standing Rule Nos. 14.2 and 14.3.
Subsection 2 of Joint Standing Rule No. 14.3.
Subsection 3 of Joint Standing rule No. 14.3.
Subsection 4 of Joint Standing Rule No. 14.3.
Has been granted effective: May 19, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA E. BUCKLEY
Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 429, with Senator Horsford as Chair and Senator Mathews as Vice Chair.

Motion carried.

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

Senate in recess at 9:52 p.m.

IN COMMITTEE OF THE WHOLE

At 10:04 p.m.

Senator Horsford presiding.

Senate Bill No. 429 considered.

The Committee of the Whole was addressed by Senator Horsford; Russell Guindon, Senior Deputy Fiscal Analyst; Senator Carlton; Brenda Erdoes, Legislative Counsel; Senator Care; Senator Townsend; Senator Washington; Senator Cegavske; Gary Ghiggeri, Senate Fiscal Analyst; Alan Feldman, Senior Vice President, Public Affairs, MGM MIRAGE; Francisco V. Aguilar, Chief Policy Officer, Associate General Counsel, The Andre Agassi Charitable Foundation; Sieutenant Tom Roberts, Las Vegas Metropolitan Police Department, Douglas Gillespie, Sherrif; Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce; Carole Vilardo, Nevada Taxpayers Association; Senator Coffin; Gina Polovina, Boyd Gaming Corporation; Senator Amodei; Russel Rowe, Wynn Resorts; Steve Hill, Las Vegas Chamber of Commerce; Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter.

Senator Horsford requested that all remarks made in Committee of the Whole be entered in the Journal.

Senator Horsford called the Committee of the Whole to order to discuss Senate Bill No. 429.

SENATOR HORSFORD:

There are several reference materials at the members' desks relating to Senate Bill No. 429. These are background spreadsheets and are available to the public. Legal Counsel, Brenda Erdoes, and Russell Guindon, Senior Deputy Fiscal Analyst, will explain the bill.

MR. RUSSELL GUINDON (Senior Deputy Fiscal Analyst):

Section 1 of Senate Bill No. 429 is the section that increases the Business License Fee from $100 to $200. This is the fee that was first created in the 2003 Session. There is an annual renewal for this fee. The Department of Taxation will have the Business License Fee from July 1, 2009, through September 30, 2009. At that point, the provisions of Assembly Bill No. 146 transfers the Business License Fee to the Secretary of State as part of the business portal. That bill is currently in the Senate Finance Committee. That bill will increase the rate to $200 and will pick up all Title 7 entities.

Section 3 of the bill is the Modified Business Tax on nonfinancial institutions. This is sometimes referred to as the Modified Business Tax on General Business (MBT). This is the tax that was first created during the 2003 session. It is a tax where, under the current statutory structure, an employer takes the wages that is being paid through their employees and, then, deducts the allowable healthcare deductions to get to a taxable-wage amount. Under current law, the rate is 0.63 percent. It proposes to create a modified MBT on nonfinancial institutions that will be a two-tiered structure. The first tier allows an employer to take the wages they pay their employees and deduct the allowable healthcare deduction and any of those taxable wages up to $62,500 per quarter will be taxed at the 0.5-percent rate down from the 0.63-percent rate. Any wages above $62,500, on a quarterly basis, will be taxed at 1.17 percent.

Section 4 is the proposal that makes changes to the Governmental Services Tax (GST). This is the annual tax you pay to register your car based on the value of the car. The existing depreciation schedule was first put in place in 1963. The minimum amount paid is $6. Under the Constitution, the rate is restricted to 5-cents per dollar or 5 percent. There is also an additonal 4 cents, currently imposed, known as the basic Governmental Services Tax (GST). This amount is imposed and is allocated to the school districts. It is then distributed to the counties through the statutory Consolidated Tax Distribution formula. There is a 1-cent supplemental tax that counties may impose. The imposed 5-cent constitutional limit is authorized. Discussions about raising the GST are not possible because of the 5-cent constitutional limit. This proposal adds 10 percent to each of the depreciation percents in the schedule on page 4, section 4, of the bill. Hypothetically, then, the values of three cars are $15,000, $25,000 and $35,000. The tax that would be paid for each year of the car under current law, beginning with the manufacturer's suggested retail price when the car is new. That amount is multiplied by 35 percent. Multiply that figure by the appropriate depreciation factor, then, that by the 4 cents or the 5 cents depending on the county. The proposed changes for cars and trucks and what would be paid under that proposal is outlined in section 4.

Section 7 is the section that increases the Local School Support Tax (LSST) by 0.35 percent. The current LSST is 2.25 percent. It would be raised to 2.6 percent. The current state combined rate is 6.5 percent, which is made up of the state's 2-percent rate. The Basic City-County Relief Tax is at 0.5 percent and the Supplemental City-County Relief Tax is at 1.75 percent. Those four rates make up the state's mandatory 6.5-percent rate. The LSST goes into the Distributive School Account (DSA) and provides funding to K-12 education through the Nevada Plan. The Basic City-County Relief Tax and the Supplemental City-County Relief Tax are consoldated into the Consolidated Tax Distribution Account and then distributed to the counties.

There are various local option rates and rates imposed through special acts that then can make the rate in various counties higher than the state's 6.5 percent that is a mandated rate.

The bill is structured so that the 0.35 percent is separated out. The 75-percent pledged for Star Bonds will not be attached to this additional LSST rate that is being imposed.

Section 13 is the mathematical calculation of the allocation of the increased revenue from the GST into the State General Fund. Under the proposal, additional revenue is generated by

changing the depreciation schedule, and the incremental increases from that will be distributed to the State General Fund. This is the statutory section that will do that, so that the existing portion of this tax continues to go to the school districts and the counties and cities. Under current law, the counties and cities will be held harmless.

The Local School Support Tax change will be effected July 1, 2009. The changes to the MBT will be effective July 1, 2009. The changes to the Business License Fee, with the Department of Taxation picking it up,will be effective July 1, 2009. The GST will be effective September 1, 2009.

That covers the major sections of the bill.

SENATOR HORSFORD:

Let us discuss each section with each component. Let us start with section 1 with the Business License Fee.

SENATOR CARLTON:

In previous discussions, there was some confusion about the doubling of the fee for the original license and the charge for each location or facility. I do not see the charge for each location facility in this draft. Is that correct?

BRENDA ERDOES (Legislative Counsel):

Yes, having the second additional location language in the bill is not a part of this plan any longer. At this point, the base language of this tax has not changed. The only change is the increase in the rate of the fee.

SENATOR CARLTON:

I am disappointed to see that. I think the Walmarts of the world can afford a $200 business license and a $200 location fee for each store they put on a corner.

SENATOR HORSFORD:

What was the amount generated for assessing multiple locations? Was it $6.7 million?

MR. GUINDON:

Yes, based on information provided by the Department of Taxation, we believe it could have generated approximately $6.7 million doing the by-location proposal.

SENATOR HORSFORD:

Let us discuss section 2.

MRS. ERDOES:

That is a fee that you continue to pay. The first fee is the application for the first year. This is for the second year and so on.

SENATOR HORSFORD:

So, it is an annual fee?

MRS. ERDOES:

Yes.

SENATOR CARE:

The amount of $100 came about in 2003. What was the purpose for us to institute the $100 fee? Was that to come up with additional funds for the General Fund?

MR. GUINDON:
That was the case. It was part of the revenue plan that was put together in the 2003 Session. There had been a $25 one-time fee.

MRS. ERDOES:
There was an additional reason for that fee. It was also considered to be a register of all of the businesses in the State to collect that information. Not everyone who has to get a business license to run a business has employees. This is a larger database of the businesses in Nevada.

SENATOR TOWNSEND:
We had some tragedies in Douglas County and northern Nevada with explosions in the workplace. Two of the businesses were not carrying workers' compensation. There was no way to track the businesses because they did not require business licenses in Douglas County. When we found that we were not able to identify those businesses to make certain that they had workers' compensation, it became obvious that we needed a state tracking system for all businesses, if for no other reason, to make certain they were carrying compensation for all of their workers. That is why we started at $25 fee. It did not generate a great deal of money, but it was a means to have every business registered to be certain they had workers' compensation coverage.

SENATOR CARE:
There were a number of things the 2003 Legislature did during that Session. Adjusted for inflation—anything that was put in place then would have to be adjusted upward by 20 percent. While this appears to be a 100-percent increase, it is not? To keep up with inflation, the $100 should be $120.

SENATOR HORSFORD:
What section is the Business Portal?

MR. GUINDON:
The Business Portal is not in this bill. It is in Assembly Bill No. 146, which is currently in the Senate Finance Committee. I can go through that as to how they relate to the Business License Fee.

Assembly Bill No. 146 creates a business portal—one-stop shop for businesses coming here to register with the Secretary of State (SOS). Eventually, other agencies could be part of that portal too. When a business registers with the State to do business, a common taxpayer ID could be created. They could do their business in one place when paying taxes, doing so online, and do their other registrations with other state agencies that might be required there as well.

A Business License Fee was going to be the test case for the portal. That function would be moved to the SOS effective October 1, 2009. The SOS would pick up the Business License Fee function from the Department of Taxation. Those entities would continue to pay the $200 imposed by this bill. Assembly Bill No. 146 would be effective October 1, 2009. It would require all Title 7 entities filing with the SOS to pay the Business License Fee. Title 7 is the title of NRS that covers all of the chapters that having business licenses. These entities include corporations, limited liability companies, limited partnerships and other types of business entities that file with the SOS. Under the current law, those entities who file with the SOS that are physically in the State, doing business, are required pay a Business License Fee to pay the Department of Taxation. When this function moves to the SOS October 1, 2009, those entities will continue to pay. It will be the other Title 7 entities who are filing, but are not physically in the State doing business that will be affected by this change. The SOS argued that those entities, although they may not be physically here doing business, are taking advantage of filing in the State with its business laws and its business protection under Title 7. It makes sense to have those entities pay the Business License Fee, like all other businesses.

Assembly Bill No. 146, effective October 1, 2009, moves the Business License Fee responsibilities to the SOS, and it affects those Title 7 entities that are not paying the Business License Fee under current law.

SENATOR WASHINGTON:
Will there be additional fees in Assembly Bill No. 146?

MR. GUINDON:
There will be no increase in fees, but there are fees that these Title 7 entities pay for filing their corporation, their limited partnership or their limited liability company with the State. There are additional fees that are imposed by the various chapters for those entities.

SENATOR WASHINGTON:
So, there are additional fees; these are not existing fees?

MR. GUINDON:
They are fees that have already been in law. The entities that are physically filing with the Secretary of State are paying fees. They are also required to pay the $100 Business License Fee if they are actually here doing business. Assembly Bill No. 146 says those people who are filing here, but not physically doing business here, would be required to pay it like all of the other entities. There would be no increase or change in any of the fees they are currently paying under Title 7. It would only be that they would have to start paying the Business License Fee for those entities that are filing, but not doing business here.

SENATOR WASHINGTON:
The bill is intended to capture those businesses outside the State that are doing business in the State so that those fees would be applicable to them.

MR. GUINDON:
That is correct. Because they are taking advantage of this State's business and corporation laws, this requires anyone who files with the Secretary of State to pay the Business License Fee. We will not make a distinction as we have been in law that a business has to physically be in the State doing business to be considered a business. All businesses will be treated the same.

SENATOR WASHINGTON:
In previous sessions, we have worked on the Chancery Court or the Business Court to make certain that the State of Nevada is competitive with eastern states for those businesses who want to incorporate. Would this new portal concept still give us the competitive edge, or will we lose that edge? Will there be a new perception that Nevada is not a business-friendly state?

MR. GUINDON:
You are correct, but I do not have the ability to answer that question. Staff might be able to get that information from the Secretary of State.

SENATOR WASHINGTON:
I would like to get the answer to that question because I think it will be important since we are looking to double the business license fee. There are other fees being tacked on to businesses and corporations that do not reside in this State.

SENATOR CEGAVSKE:
How does this affect nonprofits? Do they have to pay the Business Fee as well?

MR. GUINDON:
No, the nonprofits are not currently required to pay the Business License Fee according to Mr. Dino DiCianno, Executive Director of the Department of Taxation, who currently has the statutory responsibility for this.

SENATOR HORSFORD:
Section 3 is the MBT portion of the bill. We will turn our discussion to this section.

SENATOR CEGAVSKE:
Since I was not in the core meetings, I would like to know how you came up with the $62,500 figure as being the threshold. What differentiates that from $80,000 for instance?

MR. GUINDON:
The staff was asked to look into the possibility of making changes to the MBT and the structure of it. Staff obtained information on Fiscal Year 2008 (FY) from the Department of Taxation. We analyzed it. Different scenarios were looked at. The figure of $62,500 equates to $250,000 in taxable wages for the taxpayer. When we looked at the analysis of that, based on FY 2008 actual information approximately 74 percent of the taxpayers who paid the MBT in nonfinancial institutions in 2008 had annual taxable wages of less than $250,000.

SENATOR CEGAVSKE:
What would be the result if you used the figure of $500,000 instead of $250,000?

MR. GUINDON:
At $500,000 in annual wages, approximately 84 percent of the taxpayers in FY 2008 would have had annual wages of less than $500,000.

SENATOR CEGAVSKE:
What would that bring in?

MR. GUINDON:
I do not remember the analysis for that.

SENATOR WASHINGTON:
How did they calculate the number that 74 percent of the businesses pay less that $250,000? What is the computation on that?

MR. GUINDON:
The Department of Taxation is able to provide us with the taxpayer hours for FY 2008. That way we can go through the information and stratify it. It is not what they paid in taxes; it is that they had taxable wages to which the tax rate would have been applied. The gross wages, less the health care, which was about 7 percent of the gross wages in terms of determining taxable wages in FY 2008, represents 74 percent of the taxpayers who had taxable wages that were less than $250,000 for that fiscal year.

SENATOR CEGAVSKE:
Why would we differentiate? It sounds like someone just tossed some numbers into a hat and pulled out the numbers. Was there any rational to this?

SENATOR TOWNSEND:
The rational was to try to provide the most relief at the same time capturing the most revenue in the broadest-based fashion for all businesses. The $250,000 was arrived at as a result of looking at how many businesses are now registered and are captured. The $250,000 threshold is for every single business that pays the MBT. Under the provision of section 3, they would have their MBT reduced from 0.63 to 0.50. Anyone who pays above that would pay the 1.17 rate. Everyone gets that $250,000 threshold. It was chosen because it captured the smallest businesses without losing any more revenue. It was the law of diminishing returns. There has been some discussion that if you move it from $500,000 then in order to capture the same revenue, you must increase the MBT above 1.2 percent. That will capture the same amount of revenue, but it will broaden, for all companies, a lower MBT than they currently pay on $500,000. This is not the staff's rational on why they chose that, this is the input we provided to them. They crafted it, drafted it and analyzed it.

SENATOR HORSFORD:
At the current MBT rate of 0.63, take a business that has $500,000 in annual payroll; that business currently pays $3,150 under our current MBT rate of 0.63. When you apply the tax cut to business from 0.63 to 0.50 for all businesses on the first $250,000 of payroll and add any amount over that, a typical business that paid $3,150 under the current MBT rate would pay $4,175 under the proposed bill. This is an effective tax rate of about 0.84 percent from where it is now. Can you elaborate on your analysis and whether those estimated figures of the value of cutting the MBT from 0.63 to 0.50 on the first $250,000 of payroll are correct?

MR. GUINDON:

For example, a business with our annual payroll of $25,000, a business with an annual payroll f $125,000 and a business with an annual payroll of $250,000 are all below or at the threshold level. They pay the 0.50 rate. It is a tax reduction for those entities. Once the amount is over $250,000 there is some tax in the top bracket. The more taxable wages there are above that bracket, then the closer the rate can get to the maximum rate, which is the 1.17 percent rate. That is the point Senator Townsend was making. The higher you make the threshold, for a particular amount of revenue, then, you have to have a higher rate in the top threshold to be able to get back to the same amount of revenue.

SENATOR HORSFORD:

This section provides a tax cut to all businesses at or below the $250,000 annual payroll amount.

SENATOR COFFIN:

At the size of a hypothetical business with an annual payr9ll of $500,000, there are a number of businesses who provide health insurance. That would represent a number of about 20 employees. A business with a $1 million in payroll, there are 40-60 employees with health insurance. As a result of the action taken in 2003, it is a reduction in the MBT. There is further reduction in the effective tax. You cannot tell exactly which business has it, but the owners know who they are.

SENATOR HORSFORD:

We will now discuss section 4, the depreciation. It is my understanding that this is an adjustment of the schedule and slows the rate of depreciation. After the first year, there will be a reduction, it will be a slower rate of reduction of about 10-percent per year.

MR. GUINDON:

If you read page 4, section 4, of the bill, is the current depreciation rate in the brackets with the lines through it. Other than the first year, the depreciation schedule slides over and down one. Currently, for a $15,000 car, you would have paid $179. That is the amount you would pay, under this section, the next year. It is like freezing the depreciation schedule for a year. It is only in year one where it does not work out that way because of the change from 100 to the 85 percent. The gap is 10 percent between each depreciation year.

SENATOR CARLTON:

I understand the proposal of one year to two and two years to three, but if we look at nine years or more, you have some one who is paying 5 percent that will be going up to 15 percent. Without adding the tenth year to allow that further depreciation, we will be eliminating the 5 percent, and we will constantly be staying at the 15 percent. Anyone who has a car that is at the 5 percent level now will have their depreciation schedule raised for as long as they have that car. My recommendation would be to add a tenth year to have that bottom 5 percent so that depreciation level can be maintained for those people who have older cars.

SENATOR HORSFORD:

The chart says nine or more at the top, then ten or more.

MR. GUINDON:

There are various depreciation schedules for vehicles, passenger cars and pickups versus trucks. This was what was enacted in 1963. Additional, changes were made in 1971. There have not been any changes made since then.

I cannot explain why there was a decision made in 1963 to end the table at nine years for vehicles and ten years for trucks. Trucks were intended to last longer; thus, they do not have as fast a depreciation rate as vehicles. That may be why they were carried out to the tenth year versus truncating it at nine years for passenger vehicles.

SENATOR HORSFORD:

Section 5 and 6 are technical in nature.

MRS. ERDOES:
Yes, section 5 has a reference to section 13, which provides for the money to go to the State. Section 6 is the introduction section providing that those two new sections, 7 and 8, are added to chapter 374, which is the LSST law.

SENATOR CEGAVSKE:
In section 4, line 45, it states that in any other vehicle we are now going from $6 to $16. Could you explain that?

MR. GUINDON:
Yes, under current law, the minimum is $6. That minimum was put in place in 1963. It has never been adjusted since then. This proposal raises the minimum by $10 to the $16 amount as a minimum. Over the past 46 years, there has been more than a 19-percent change in costs.

SENATOR HORSFORD:
We will discuss sections 7 and 8.

MRS. ERDOES:
Section 7 is the tax portion. Section 8 is the use-tax portion. It provides that an increase of 0.35 percent be added. We did not add it to the 2.25 percent in the existing tax because we wanted to separate the increment of the tax that would not have been already pledged for Star Bonds and other revenues where they have pledged sales tax. If you did that, then, the increment would be depleted by going to the Redevelopment Authority or to Star Bonds. These are new sections, but they mirror the language in the existing LSST in the position provision.

SENATOR HORSFORD:
Is this the LSST that is at 2.25 percent now and will go to 2.6? The LSST is used for what?

GARY GHIGGERI (Senior Fiscal Analyst):
The LSST is used to support public education in K-12. It goes into the Distributive School Account (DSA.).

SENATOR HORSFORD:
Can those funds be diverted?

MR. GHIGGERI:
They cannot be diverted.

SENATOR HORSFORD:
We will now discuss sections 9, 10, 11 and 12.

MRS. ERDOES:
These are technical in nature. They add the new increment that is put in by sections 7 and 8. We are adding those to the same references that contain NRS 374.190. That is the section that imposes the main increment of the LSST. They are internal references though section 12.

SENATOR HORSFORD:
With no questions on those sections, we will move on to section 13.

MRS. ERDOES:
Section 13 provides that the increment coming from the tax, where we change the depreciation, be credited to the State General Fund. The other portion of that tax goes to the local governments. We are taking that increment off that is equivalent to the increase in fees paid because the decrease in the depreciation schedule will come to the State General Fund.

SENATOR HORSFORD:
Can you explain the rates and the terms and percentages that are on page 7?

MR. GUINDON:
These are calculations that are necessary for drafting the bill that was necessary to make certain that each year of depreciation that is noted on page 4, section 4, is generating the

additional revenue from the GST by changing the depreciation. The money that comes from that change is the portion that goes to the State General Fund. That way we are not taking any money away from the school districts. They get their share, and the counties and cities get their share. These are the percentages that are necessary to do that. You take the new depreciation rate times the old depreciation rate, and you calculate that as a percent. At each year, that is the percent that needs to be allocated from that depreciation year to be put in the State General Fund.

SENATOR HORSFORD:
This is a supplement not a supplanting for impact to local sources.

MRS. ERDOES:
Yes. If you look at the table, it has the bracketed out amounts. Those amounts will go away when we codify that section. We would be asking someone to figure out what the increment was that goes to the State by looking at a chart that now reads 100 percent, 95 percent. We thought that would be difficult to follow in the future. That is why that chart is there. It matches up exactly. In paragraph (a) it goes to nine years, and in paragraph (b) it goes to ten years. We thought that it would be better to have those increments set out now so that in the future you would be able to figure it out by looking at the statute.

Section 14 adds the references from section 13. Those are the same as NRS 482.181. We are linking those sections so that this will be clear in the future. Section 16 and 17 are the same, adding the internal references to make the statute consistent. Section 18 is another internal reference fix. This references NRS 482.180 and 482.181. This new increment fits within that. Section 19 provides that section 3 of the bill does not apply to the taxes due for the period ending before June 30, 2009. We put this type of language in a statute to make certain that it is clear exactly to what the new increments apply.

The same thing is true with subsection 2. Sections 4, 5, 13, 18 apply to the GST imposed for any period of registration of a vehicle that begins on or after September 1, 2009. That tries to make it clear that if your registration comes due July 1, you will not pay this additional amount. You will not start paying it until September 1, 2009. We worked with the Department of Motor Vehicles (DMV). They were helpful in providing us with the information. That would be the first time DMV would have a chance to collect at this higher rate because they needed the time to reprogram their computers to be ready to collect this tax. That is why we chose that date. Section 20 addresses the effective dates previously discussed.

SENATOR CEGAVSKE:
Can you tell us how much money each section will raise? Will this require additional staff at DMV? How long will it take?

MRS. ERDOES:
Having time to program their computers was their concern. The programmer was able to determine how long it would take to make the change. Once the programmer changes the computers so that the staff can do the registrations based on this new table, there will not be a requirement for additional people.

SENATOR CEGAVSKE:
Mr. Ghiggeri, could you go through the totals for us?

MR. GHIGGERI:
The projected use tax for the LSST collections is approximately $280 million over the biennium. That is effective July 1, 2009. The MBT is projected to generate $345.7 million. The Business License Fees is projected to generate $60.8 million. The GST is projected to generate $94.2 million.

SENATOR CEGAVSKE:
Because of the economy, is there a projection for any more of a downturn during this next year based on this? Are you projecting low?

MR. GHIGGERI:
These are based on the May 1 Economic Forum revenue-projection growth percentages. The Economic Forum, on May 1, did significantly reduce their revenue projections. They used the same percentage growth assumptions that were utilized for the Economic Forum.

SENATOR CEGAVSKE:
Is there any projection from the Economic Forum or anyone else of what they foresee for the rest of this year?

MR. GHIGGERI:
Not since May 1, there has been no new projections provided.

SENATOR CEGAVSKE:
If the revenues do not come in at the amounts indicated, what then?

MR. GHIGGERI:
We will have a problem.

SENATOR CEGAVSKE:
I did not see any sunsets listed.

SENATOR HORSFORD:
Any proposed amendments to the bill will be taken up separately from the bill itself. If there are any other suggestions from the members of the Committee, let us put them out now and we will discuss them later.

SENATOR TOWNSEND:
The Finance Committee might want to consider having the Economic Forum come in before December 1, 2009. There may be a need for an analysis before then. July 1 might be appropriate. It would be helpful before the next session to give us more understanding. For the money committees and the staff it is important to the discussion.

MR. GHIGGERI:
On a monthly basis, Fiscal Staff monitors the collections of revenue as it is deposited to the State General Fund. We also monitor the quarterly tax collections for any abnormalities. We do that on a routine basis. We provide information to the money committees on any abnormalities.

SENATOR WASHINGTON:
There is a number that states, "total accumulation of taxes proposed," which comes to a little over $781 million. Does this number reflect the money that was added back into the budget?

MR. GHIGGERI:
This will fund the budget as recommended for approval by the money committees. This will fund the known-and-projected deficit for that budget.

SENATOR WASHINGTON:
What is that budget number?

MR. GHIGGERI:
The projected shortfall is around $780 million. The total budget number is approximately $6.8 billion.

SENATOR WASHINGTON:
The remaining additional money needed to make up the deficit in the budget is made up by the stimulus money.

MR. GHIGGERI:

It comes from the stimulus funds; it comes from the increased Federal Medical Assistance Percentages (FMAP) in the Department of Health and Human Services. There is funding that has previously been approved by the Legislature for the increase in room tax. The Governor also recommended some other funding sources that appear to be adopted by the Legislature.

SENATOR WASHINGTON:

What is the difference between the proposed budget that came from Senate Finance and Assembly Ways and Means at $6.8 billion and the Governor's budget?

MR. GHIGGERI:

The amount of State General Fund that is recommended to be added which is the net of stimulus money and increased FMAP is about $621.2 million. The restoration of furlough change is approximately $23.9 million. That is over a 3-year period. That includes this fiscal year.

It is not a simple answer because of all of the different components that flow into the budget. There is the FMAP money, the stimulus money, not just State General Fund money that is in there.

SENATOR WASHINGTON:

The recommended budget is $6.8 billion.

MR. GHIGGERI:

The Governor's budget was about $6.2 billion. The Legislature had to come up with additional funding just to fund the reductions in the projected LSST over the biennium and the reduction in the estimated property tax in the biennium. There are a number of items the Legislature had to address.

SENATOR HORSFORD:

Based on the level of current services including growth and inflation, there was over $1 billion in cuts from our current service levels. That is an important point in this revenue discussion.

SENATOR CEGAVSKE:

What is the maintenance of effort (MOE) for education?

MR. GHIGGERI:

The State is required, the way the waiver was submitted by the Governor, to fund FY 2010 for both higher education and K-12. It is about $52.3 or $52.6 million. The State has to maintain the same level of funding in FY 2010 and FY 2011 as it provided in FY 2009. Of the total budget, they have to maintain that level of support.

SENATOR CEGAVSKE:

How much over the MOE are we on education?

MR. GHIGGERI:

We are not over the MOE. We added money back in to maintain the MOE.

SENATOR CEGAVSKE:

How much was that?

MR. GHIGGERI:

To maintain the level of funding we used some stimulus money once we qualified. The Governor submitted an application for a waiver. Once we were approved for that waiver, we were able to use the stimulus money to fund part of education.

SENATOR CEGAVSKE:

Have we gotten part of that money yet?

MR. GHIGGERI:
The award was approved May 8.

SENATOR CEGAVSKE:
For how much?

MR. GHIGGERI:
There will be a special IFC meeting, Saturday morning, 8:00 a.m., to process the work programs.

SENATOR RAGGIO:
If we process this measure in this form, there are two requests that I have to be included in the final bill we vote on. We must fund essential services. That has been the goal of those who have worked on this project. As the Majority Leader indicated, we have made major cuts from the existing budgets. The budget does not have many frills. It funds essential services. These revenue enhancements are necessary at this time. They are necessary because of the downturn in the economy; therefore, my support of this measure would be predicated upon the existing taxes, the LSST, MBT and the Business License Fees on existing business being increased and sunsetting at the end of this biennium. The next Legislature will have the opportunity, if circumstances are different, if the economy has improved, to revisit and, if appropriate, reauthorize these increases on existing taxes. With the GST, that is actually a change in the calculation based upon the rate of depreciation. That is normally designated for the Highway Fund. This change, which results in increased revenue, should be for a limited period of time to the State General Fund either for this biennium or for the next two biennium. After that, it would return to the Highway Fund.

It has been a long time since we have had a serious study of the tax structure in this State, conducted by an independent consultant. For that reason, I requested the introduction of Senate Bill No. 399 which was heard in Senate Finance and which would provide funding for that. Based on the limited information we have as to what might be essential for a study, we should add an appropriation of not more than $500,000 for that study. That should be provided to IFC for suitable discussion based upon competitive bidding.

SENATOR HORSFORD:
I would like to thank the staff and Mrs. Erdoes, Mr. Guindon and Mr. Ghiggeri for their incredible service in assisting us. We appreciate the hard work and countless hours you have put into this process.

Senator Horsford recessed until the call of the Chair at 11:15 p.m.

Senator Horsford called the Committee back to order at 11:30 p.m.

ALAN FELDMAN (Senior Vice President, Public Affairs, MGM MIRAGE):
Thank you for allowing me the opportunity to appear before you today to speak about our State's budget crisis. Our Chair and Chief Executive Officer, Jim Murren, wanted to be here, today, to speak to you personally about the budget deficit but, unfortunately, was unable to do so. He asked that I make this presentation on behalf of our entire company.

I would like to start by commending each of you for having worked diligently to put the needs of our citizens first and come up with a solution to this crisis. While we understand that your work is not yet done, we support the efforts of the Legislature to move forward in finding a way to fill the largest budget hole in our State's history.

The position of our company should come as a surprise to no one. For more than 18 months, our company has been outspoken in its belief that we must both search for ways to make government more efficient and create a more stable tax environment, one that properly reflects the reality of the needs of the State of Nevada in a new century and beyond.

As the State's largest employer, we bear a responsibility to the workers of our company to help contribute to the access of a quality education as well as affordable health care and sound public safety systems. But, our responsibility goes far beyond the walls of our businesses.

No single company has as much at stake in Nevada as does MGM MIRAGE. The numbers are indeed overwhelming, whether measured in terms of the tens of billions of dollars we have invested here to the tens of thousands of employees for whom we are responsible for wages and benefits, to the hundreds of millions in tax dollars we generate for Nevada each year, our futures are inextricably linked.

Many have made the observation that when times are good, Americans can see no way down, and when times are bad, we can see no way up.

Clearly, the current economic environment has been a cause for pessimism in all corners of society. MGM MIRAGE has certainly not been immune from the realities of this economic downturn. Our actions have been well detailed in business press coverage, sometimes too well detailed, but it has included budget cuts, staff reductions, and salary and benefit cuts, deferring capital investment and delaying or stopping planned projects.

At the same time, we continue to invest in Nevada, spending as efficiently as possible, in order to be in a position as a company to continue to provide stability and opportunity for our employees, business partners and shareholders. For MGM MIRAGE, we do see better days ahead. We see them not because we are able to cling to some fairy-tale outcome, but we are prepared to do whatever it takes to make those days a reality.

Similarly, the Legislature has taken the lead in preparing a budget that must reflect current realities but must also properly provide for our citizens and prepare our children to meet the needs and challenges of our future.

Morally, we simply cannot ignore the needs of those who have been further devastated by the current economic downturn. The people in need of real help are not going to go away because we have cut the budgets of social-service departments.

Simply put, we cannot rely on budget cuts alone to work our way out of this crisis. In our view, you have come up with a package of fair, broad-based and reasonable revenue enhancements in order to provide for the needs of our residents in these extraordinary times.

All of us in the gaming profession, our employees and our vendor partners, are integral to this State, and the industry has always taken, very seriously, its obligation to the community. It has done so consistently throughout its more than 75 years of history in Nevada, and we continue to do so today, even as we have seen one of the largest revenue declines in the industry's history.

On each occasion, when gaming has supported a tax increase, even those that are not paid by gaming alone, such as property or sales tax, it has done so knowing that the tax burden will almost certainly fall most heavily on itself.

This cycle is no different. The industry has already agreed to a substantial increase in the room tax. We will pay a significant share, likely the largest share, of any increase in the MBT. We are the largest payer and generator of the sales tax. As the State's largest employer and taxpayer, MGM MIRAGE accepts its leadership role and, in that spirit, has worked with you toward finding a solution to this budget crisis.

Throughout the past three decades, economic experts, community, elected leaders and academicians have repeatedly acknowledged that our State's tax structure is flawed. That is why we are supportive of the efforts of Senator Horsford and Senator Raggio, along with many others, to structure a process for the interim development of a broad, stable and long-term revenue solution.

If we do this properly and create a new tax policy that acknowledges everyone's need for, and use of, the network of State-funded resources, we can put in place a stable foundation upon which to build a better quality of life for all Nevadans.

We have the ability to change Nevada from a state where economic and social planning extends only to the next political season into a state where we provide properly for future generations.

These decisions are never easy. They are fraught with dangers, real and perceived, practical and political. But, they must be made.

On behalf of MGM MIRAGE, we fully support your efforts to protect the quality of life for all of Nevada's residents.

FRANCISCO V. AGUILAR (Chief Policy Officer and Associate General Counsel, The Andre Agassi Charitable Foundation):

Everyone knows our State is facing one of the most difficult economic times in our history. As such, you have been forced to make some difficult decisions on both cuts and revenue. As you know, Andre Agassi has long been a passionate supporter of education reform and the crucial role education plays in the lives of some of our most underserved children. It is unfortunate when the important social needs of our State are pitted against one another due to budget shortfalls.

That being said, we are hopeful that the plan you have put together will minimize the harm to our state's education system and we commend you on the work you have done to minimize the harm to our state's children. We are happy to work with you going forward to ensure that our schools are adequately funded and that education remains a top priority.

LIEUTENANT TOM ROBERTS (Las Vegas Metropolitan Police Department, Douglas Gillespie, Sheriff):

I would like to join the previous speakers in complimenting you for your hard work in coming up with a solution for the shortfall in the budget.

In 2004, Las Vegas Metro went to the voters for a ballot initiative to hire, fund and equip police officers. This body approved the first quarter-cent sales-tax increase to a full half cent in 2005. Since that time, we will have hired almost 600 police officers. With that sales tax, we have done what we said we were going to do. We understand the situation in the State. Luckily, since we have hired the personnel, we have been able to reduce crime and get our ratios to where ourals were. If there is a sunset provision to the sales tax, we would want to be considered in the future implementation of our second quarter-cent increase. We had a bill this Session, Senate Bill No. 202, that would have done that, delayed it until 2011 and 2013. I understand it would be difficult to put another sales tax on top of a sales tax you are providing. We are patient, if you sunset it, please consider ours.

TRAY ABNEY (Director, Government Relations, Reno-Sparks Chamber of Commerce):

Prior to this Session, our Chamber laid out a list of long-term spending reforms that we wanted this body to undertake before any tax increases are considered.

We would like to see aggressive implementation of the Sage Commission recommendations to make state operations more efficient and cost effective, passing much needed reforms to PERS and PEBS. We would like to see the revision of state laws that cover public-employee labor contracts and prevailing-wage laws. We would like to see the expedited and enhanced collection of uncollected fees owed to the government and the implementation of a spending cap and creation of stable-reserve accounts.

I have testified and supported a few bills about the uncollected fees. Assembly Bill No. 165, Speaker Buckley's bill, creates a forced Rainy Day Fund and reserve accounts for higher education and K-12.

I know there is still work ongoing on PERS and PEBS reform; this Chamber cannot support any tax increases at this time. We cannot support this bill. We believe that any tax system should be as low and broad-based as possible. We do not think that any specific industry, whether banking, mining or gaming, should be targeted. We are concerned about the large versus small business dichotomy that is set up in the MBT portion of this bill.

We appreciate the effort of giving most small businesses a tax cut, you were able to lower the rate that everyone else has to pay over $250,000. We are concerned about placing an arbitrary cap and worry that it could provide a disincentive to hiring more people if someone gets near that cap of $250,000. We worry about introducing more complexity into the MBT. There is a 2-percent rate for financial institutions. We do understand and appreciate your concern for small businesses.

SENATOR HORSFORD:

Have you reviewed the PERS bill that was introduced by the Senate Finance Committee?

MR. ABNEY:

I have seen it today. We are still looking at it.

SENATOR HORSFORD:

What about Senate Bill No. 415 on the PEBS reform?

MR. ABNEY:
I am not as familiar with that. I need to look at it.

SENATOR HORSFORD:
That was passed out of Senate Finance. You might want to review those. There were significant reforms in both of those bills.

CAROLE VILARDO (Nevada Taxpayers Association):
I am not here to speak in support or opposition of the bill. This is a moving target, and preliminary surveys I did of our board, which would be required to take an official position, did not track what has come down. I would like to address some of the mechanical issues and some of the issues I see in the bill.

There was a great deal of discussion about how all business would benefit from the $250,000 threshold. The reference in the bill is strictly NRS 363B. That is not all business. NRS 363A is the financial institutions provision. If it was the intent to give this to all business, NRS 363A was left out. The financial institutions would have the same benefit as everyone else, and that is the initial 0.5-percent rate on the first $62,500. While I appreciate the $250,000 annual threshold because there is no carry-forward provision for a business that does not go up to the $62,500 in a quarter, there are businesses, because of seasonal employment in various quarters, that will pay the lower rate plus the higher rate. There is no carry forward.

I have a concern about the increase in the sales tax because, normally, when the sales tax has been increased, there has been a provision put in the bill that accommodates nonescalating clause contracts. We have that in construction contracts. That was made a permanent part of statute, but we do not have it for commodity contracts. Many contracts that were written today provide those escalating clauses because of increases that may occur that are unknown. For those contracts, where there is no escalation clause, I would like to ask for consideration in the language, as an amendment, that protects those contracts under the provisions of NRS 374 for the LSST and the 0.35-percent increase.

I will make more comments in the Assembly as I see amendments that might come through. But, I would hope that it is the intent to extend this to chapter 363A, relative to what is called the "bump-10 scenario" that was originally developed during the Blue Ribbon Task Force. When Governor Guinn put that task force together, I had the privilege of serving on it. We did that to fund highways. I was disappointed to see it being usurped. I would like to see a sunset in 2011. The Highway Fund is in desperate need of revenue. That was a viable option, and it had a nexus.

SENATOR CARE:
Walk us through an example of the purchase price of a contract.

MS. VILARDO:
An example would be if you hire me to provide you with light bulbs for the next two years and we negotiate a price, it is a contractual price. I have the delivery set with the conditions that are with it. In that price, I have figured out everything that I would add, relative to my business. I have figured out the cost of those light bulbs plus the sales-and-use tax that I would be liable for, particularly if it were a government. You change the sales-tax rate on me, then I am absorbing the additional expense in addition to other taxes that I might have.

We have consistently asked for these provisions anytime we raise sales taxes.

SENATOR CARE:
You are saying that has always been included in statute, somewhere, when there has been an increase in the sales-and-use tax?

MS. VILARDO:
We did not do it one year, and it created some problems. In the following year, there was generic language put into statue. It did not cover all commodity contracts. This started out because of coal, and then, it went to construction. We have nothing on general commodity contracts.

SENATOR COFFIN:

We have followed that before. These purchases need to be held immune from the increase if contractually arranged. We have done it before. There is precedent. We should work it into this bill. Could you repeat your concerns, as I was unable to hear them clearly?

MS. VILARDO:

There was the nonescalating clause contracts. It was, I assume, the intent; was because of all of the references to all businesses having the ability to have that $62,500 per quarter, that it would be extended, and there would be an amendment to include NRS 363A.

The other comment I made was on vehicle depreciation to sunset in two years instead of taking it out to four years. You can always revisit it. The date for the sunset would be June 30, 2011. You would be in session if there were a need to keep it longer.

This was not for amending, because it could create a problem. With the way you have tiered the business tax, going across the board, the business tax should remain as a minimally invasive tax to a business. You can generally do desk audits on that because you are working off employment security. This would require an additional line. If you started reconciling at the $250,000, at the end of the year, to see which quarters vary, then, it could create additional accounting problems both in the area of compliance and administration.

SENATOR HORSFORD:

Thank you, we will follow up with your recommendations.

SENATOR CEGAVSKE:

What happens when we sunset these? What hole is left for the next legislative session? Are there different sunset dates? If we do not do sunsets, will there still be a revenue shortage when we come back next session?

MR. GHIGGERI:

If the legislation is sunsetted and the economy does not improve, you would be short whatever revenue this legislation provides for. If the economy improves, you would not be hurt. It is difficult to say what the economy will be two years from now.

SENATOR CEGAVSKE:

What is the dollar amount?

MR. GHIGGERI:

It would depend upon which of these items you sunset. That would affect what is listed on the list which is somewhere around $781 million.

SENATOR HORSFORD:

It is important to note that we have the stimulus dollars of about $150 million, which are one-time dollars. I do not know where we would expect that money to come from in the future. That is part of the consideration.

GINA POLOVINA (Boyd Gaming Corporation):

Thank you for the opportunity to allow me to appear before you. As many of you are aware, Boyd Gaming has been a proud Nevada corporation for more than 35 years. Over the decades, we have contributed generously to our community and have particularly focused our efforts on enhancing the educational opportunities for future generations of Nevadans.

This Session has presented you with a monumental task. With lagging revenues across the board, state expenditures were trimmed to the furthest extent possible without irreparably affecting basic services. You saw fit to cut over a billion dollars in state funding, nearly a fifth of the entire budget.

Cutting a billion dollars from an already lean budget is no easy task, and there comes a point where, in good conscience, you simply cannot cut one more cent without creating a hole from which the State would take years to recover.

As a native Nevadan, I remember the time when Nevada was not floundering among the bottom of the good state rankings and atop the bad ones. We deserve better, and we can do

better. We must invest in Nevada's future and support a tax package that will enable us to reemerge from this recession in a much healthier position.

Boyd Gaming has long held that revenue enhancements are justifiable, so long as they are coupled with spending cuts and significant, necessary reforms to the public employees' retirement and benefit systems. It is imperative to help mitigate the impact of PERS and PEBS, an $11- billion liability to the State.

We applaud both the Senate Majority Leader and Minority Leader's efforts to create an interim commission to identify long-term solutions to our State's imbalanced tax structure. We look forward to continuing this important dialogue.

On behalf of our nearly 10,000 southern Nevada employees, we thank you for your thoughtful deliberations over these very difficult matters. By joining together as Nevadans, we will make this State a place that we are all proud to call home.

SENATOR AMODEI:

What are Boyd's predictions for the business climate for your business for the next 24 months?

MS. POLOVINA:

We remain bullish on Nevada, and we know that we are facing some desperate situations. I do not know if we will be fully recovered in the next 24 months. We will start the up-hill climb. Things will get rosier. They will be better than today.

SENATOR AMODEI:

Do you have any analysis from consultants or in-house people that indicates whether you are at the bottom of these desperate situations? Do you know where the bottom will be?

MS. POLOVINA:

Our recently reported revenues, especially in our Nevada regions, saw a leveling off. Many of our competitors can make that same claim. We will see if that trend continues. If it does, maybe that will be some sort of guidance for us, looking to the future. Maybe we are at that lower end of the ebb. Time will be the greatest determiner of that.

SENATOR AMODEI:

When we met as a Committee of the Whole on Initiative Petition No. 1, Miss Sinatra of Wynn Resorts testified regarding some of the cost-cutting measures that they have undertaken because of the financial situation we find ourselves in as a State. Could you describe some of those the Boyd Gaming Corporation has taken, if any?

MS. POLOVINA:

We have cut back on many of our expenses. Corporate level expenses, in particular, have been severely curtailed. There have been no bonuses, no pay raises, and we are running a lean machine.

RUSSEL ROWE (Wynn Resorts):

Since our budget crisis became clear, Wynn Resorts has publicly supported the following:

One, reviewing the state budget with a view toward adjusting spending to reflect extremely reduced revenues, while maintaining funding to education and other essential services.

Two, addressing long-term liability issues, such as PERS and PEBS, that will affect our State's economic future.

Three, if required to fund these essential government services, particularly education, raise revenue in a manner that ensures everyone shares the burden in a fair and equitable manner. In fact, we so fervently believe in the proper funding of education that we partnered with the teachers and citizens of Nevada to increase the room tax.

Wynn Resorts thanks the legislative leadership for taking the time to review the state budget in a thorough and thoughtful manner. While difficult and painful cuts have been made, you have tried to preserve essential services and done the best possible to protect our state's future.

Legislative leadership has begun addressing long-term state and local liabilities that, if left unchecked, would threaten to bankrupt our State. We support this process and believe that this reform is a necessary step toward solidifying our future.

Senate Bill No. 429 represents a compilation of increases to existing taxes that is as broad based as our current structure allows. Inclusion of a commission to take a thoughtful and careful look at broadening our tax-base is also an appropriate step given the many challenges facing Nevada.

The hurried conclusion to the Legislative Session and the procedural requirements of dealing with a certain veto by our Governor have required that we proceed in good faith, not having seen the details of the entire proposal. Therefore, our testimony, today, is predicated upon the faith and trust that the full package will address the elements mentioned above. We hope to continue to partner in good faith in a positive path to our state's future.

STEVE HILL (Las Vegas Chamber of Commerce):

We have not had an opportunity to completely review the bill that has been heard this evening. We have had an opportunity to participate in conversations. We appreciate your hard work on this. We understand what the components of this bill are, and we do not have difficulties with those components. We appreciate the concern that you have shown for the business community, our members number over 7,000 in southern Nevada. It is a difficult time for them. You know that. It is a difficult time for the decisions you have had to make here. We understand that. We have said that we understand that new revenue is going to have to be a part of the solution during this Session. We hope that the solutions for the long term on PERS, PEBS and collective-bargaining reform are also addressed. It is important that we not have these situations again, especially to the extent that we have the ability to prevent them. The economy is playing a role now, but the $11 billion in unfunded liabilities that we have are continuing to grow. The costs of keeping those unfunded liabilities of $11 billion is also continuing to grow. If we do not significantly change those directions, we will be back in these hearings in future legislative sessions. It is in yours and our interests to prevent that.

SENATOR COFFIN:

I would like to thank the panel for their constructive remarks. I appreciate them. This has not been easy. I appreciate that you do not have difficulties with the components discussed. There have been contentious meetings about this issue. I know there have been opportunities to read the bills presented so far on subjects outside the budget. That indicates your good faith effort too. We have been operating with a minority veto, and I do not mean that in the structure of a political party but rather that a small number of people can block many moves we want to make to broaden the tax base. We have not been able to get a sufficient majority to do the broadening that we would like. We will go through another session and not have it. That upsets me. All of you have expressed a desire that it would happen. I hope it will, someday, but it will not happen while I am serving. I regret that. Thank you for your testimony.

SENATOR HORSFORD:

Mr. Hill, have you had the opportunity to review the PERS bill that was introduced in Senate Finance today?

MR. HILL:

I have, Mr. Chairman.

SENATOR HORSFORD:

What is your opinion?

MR. HILL:

We appreciate the steps that you have taken in that bill. We feel that the recommendations we have made are reasonable. They are only for new employees. Particularly, in the PERS bill, they are considered property rights, and we will have to live with those promises for young people we will be hiring after the beginning of the year for 50 or 60 years. In order to be certain that we can afford to live with those promises, what is in that bill needs to go further.

SENATOR HORSFORD:
What are the elements that you agree with?

MR. HILL:
We are in agreement with the minimum-age requirements in that bill for police and fire employees. We agree with some of the anti-spiking provisions. We would like to see the anti-spiking provisions broadened mostly going from 36 months to 60 months. The minimum age for regular employees has not changed. There is still a 30-years-and-out provision. Nevada continues to be the only state in the Nation with that provision; where after a certain number of years employees can retire at any age without penalty. With new employees who are in their 20s and 30s, asking them to work 32 years instead of 30 years to achieve full benefit, makes sense.

SENATOR AMODEI:
Can the reforms you have talked about be changed by any subsequent Legislature?

MR. HILL:
Our understanding is that in PERS once that promise has been made to an employee, it is considered a property right. If a change was made, it would be considered a taking. We have not done the legal analysis to make certain that is right. It is what we have been told on a regular basis.

SENATOR AMODEI:
Have you done any research to see if there has been any changes in PERS or PEBS during the last decade that have been enacted by the Legislature?

MR. HILL:
There have been some changes made by the Legislature. They have largely been to increase the benefit to employees. Typically, once those benefits have been increased, they have not been reduced. The bill put forward that will be heard on Thursday makes some changes in the direction in making the PERS program more economical. We do not feel that it goes far enough.

SENATOR AMODEI:
Do you plan to do the legal analysis you referred to before this Thursday's hearing whether or not subsequent changes can be made?

MR. HILL:
When I said we had not done the legal analysis, we have gotten legal opinions from others. It is our opinion that PERS, given its current structure and current law, is a property right.

SENATOR AMODEI:
Then with that understanding, have you requested any language be put in the bill to prohibit the future changes to increase benefits beyond what it is you think is appropriate that you have described to the Majority Leader?

MR. HILL:
We have not.

SENATOR CARLTON:
I have listened to many of these comments for a number of months.

I was raised to raise my children up, to give them better than what we have. By these proposals in this future retirement scheme and this future benefit scheme, if one of my two daughters decides to go into public service, she will get less than what her father has. I find that disappointing. It is more than disappointing. I find it wrong. I do not believe that we should be setting up a scheme where our children could be penalized for choosing public service. When did it become okay to lower the standard rather than raising other people up or to lower people who have something to another standard? I understand where you are coming from. It is no surprise that I do not ever agree with the Chamber. I hear these things over and over again, and I stop and think about what my parents gave up, what my grandparents gave up so that every

generation could do a little bit better. Here we sit because of an economic crisis that was not of our own making, talking about shortchanging the next generation of state employees. That gives me great concern.

STEVE HOLLOWAY (Executive Vice President, Associated General Contractors, Las Vegas Chapter):

One year ago, our industry was the second largest industry in this State. During the last eight months, we have laid off nearly 40,000 workers. That puts us third behind gaming and government. We do applaud the budget cuts you have made. We recognize the need for the tax increases that you are now proposing and which we support with only one caveat. In the end, these tax increases will prove meaningless unless you address the runaway costs associated with PERS and PEBS and local government salaries as the Las Vegas Chamber of Commerce has asked to be addressed. We applaud you for the budget cuts and for the provisions in this bill.

On the motion of Senator Wiener and seconded by Senator Coffin, the Committee did rise and return to Senate Chambers.

Motion carried.

SENATE IN SESSION

At 12:19 a.m.

President Krolicki presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 27, 34, 66, 74, 77, 79, 131, 132, 134, 163, 169, 170, 174, 209, 215, 217; Senate Concurrent Resolutions Nos. 5, 6; Assembly Bills Nos. 20, 40, 63, 75, 116, 117, 119, 123, 173, 206, 230, 239, 327, 329, 369, 380, 393, 403, 416, 473, 508, 528, 538.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator McGinness, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperones and teachers from the E. C. Best Elementary School: Benjamin Alexander, EmmaLeigh Bake, Brenda Cervantes, Kelsee Chasing Crow, Robert Dunlap, Shanice Durr, Jacob Evans, Dontae Groves, Addyson Harmon, Michael Harnack, Jolynn Lehman, Bryan Lynn, Ashley Marran, Cameron Matzen, Colton Moretto, Tyler Moye, Rebekah Orozco, Russell Peterson, Cesar Rosales, Dominic Rushing, Orianah Street, Evette Togafau, Gabriel Young, Ethan Bohrn, Ian Cayro, Kody Chrislock, Blake Davis, Megan Dixon, Jaqueline Enriquez-Sanchez, Marissa Foley, Anthony Gatica, Nocona Gonzales, Madissun Hodes, Amber Kieszkowski, Austin McInnis, Michael Meadows, Kuera Mendiola, Jessica Navarrete, Sydney Pauley, Brandon Perry, Aarron Rogers, Eduardo Rojas, Ricardo Rojas, Maritza Ruiz, Katelynn White, Logan Whitney, Anthony Wright, Mayra Alvarado, Cameron Archer, Bradley Bennett, Aaron Bitter, Evan Bitter, Whisper Brown, Ryan Brune, Kenrick Crutcher, Rachael Duran, Corrina Gerard, Jaime Gonzalez, Daniel Holden, Dustin Hopkins, Davis Koenig, Christopher Laingen, Rebecca Mills, Samantha Nihoa, James Pendergrass, Shane Rasmussen, Savannah Simms,

MaKayla Smith, Michelle Therianos, Isabella Thomas, Tristen Thomson, Daniela Valtierra, Oden Wayman, Dani Whooley, Bryson Abe, Kevin Aguilera, Christopher Beech, Diane Brainerd, Courtney Cross, Jason Disney, Monica Dixon, Lilia Garcia-Rojas, Cady Godfrey, Cortny Harrison, Kaylee Heaton, Robert Hurlburt, Jose Ibarra, JayLeanna Johnson, Courtney Judd, Loren Lammel, Cade Monardo, Dana Nevin, Orlando Pardini, Lizet Ruiz, Edmond Sadekoski, Makenzie Sanders, Gabriel Schaefer, Makayla Webb, Paula Worsham, Tristin Thomas; chaperones: Todd Moretto, Brandy Moretto, Cathi Tuni, Shelby Brown, Summer Thomson, Tammy Harmon, Trudy Mills; teachers: Brenda Boone, Dave Gertson, Lori Kaiser and Paula Parrish.

Senator Horsford moved that the Senate adjourn until Wednesday, May 20, 2009, at 10 a.m.

Motion carried.

Senate adjourned at 12:20 a.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate