THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 22, 2009

Senate called to order at 9:25 a.m.
President Krolicki presiding.
Roll called.
All present.
Prayer by Senator Woodhouse.

Our Father, who art in heaven,
hallowed be thy name.
Thy Kingdom come,
thy will be done,
on earth as it is in heaven
Give us this day our daily bread.
And forgive us our trespasses,
as we forgive those who trespass against us.
And lead us not into temptation,
but deliver us from evil.
For thine is the kingdom,
the power and the glory,
for ever and ever.

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.

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 429.
Motion carried.

Mr. President announced that the Senate will convene the Committee of the Whole in the Senate Chamber with Senator Horsford as Chair and Senator Mathews as Vice Chair of the Committee of the Whole.

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

Senate in recess at 9:29 a.m.

IN COMMITTEE OF THE WHOLE

At 11:44 a.m.
Senator Horsford presiding.

Senate Bill No. 429 considered.

The Committee of the Whole was addressed by Russell Guindon, Senior Deputy Fiscal Analyst; Senator Carlton; Senator Cegavske; Senator Nolan; Senator Raggio; Senator Horsford; Senator Washington; Brenda Erdoes, Legislative Counsel; Senator Coffin; Senator Schneider; Senator Carlton; Senator Lee; Senator Care; Senator Hardy.

RUSSELL GUINDON (Senior Deputy Fiscal Analyst):

Section 1 of Senate Bill No. 429 increases the Business License Fee from $100 to $200. This section increases the fee and puts the imposition for collecting the tax and administering it on the Department of Taxation from July 1, 2009, through September 30, 2009. After that, the provisions of Assembly Bill No. 146 take over and move the Business License Fee to the Secretary of State. It will pick up the people who file under Title 7 with the Secretary of State.

Section 2 is the annual renewal of that $200 fee.

Section 3 is the proposed changes to the Modified Business Tax (MBT). It will take it from the current, single 0.63-percent rate to a two-tiered system such that any taxable wages on a quarterly basis that an employer pays to their employees will be taxed at 0.5 percent up to $62,500 per quarter. Any amount over $62,500 per quarter will be taxed at 1.17 percent.

Section 4 is the proposed change to the Governmental Services Tax (GST). This is the annual registration fee paid for registering a car. Under this proposal, it changes the depreciation rates for vehicles. Buses, trucks and trailers are in subsection 2 of section 4 on page 4 of the bill. By changing the depreciation rates, it increases the amount of revenue that will be generated from the basic 4-cent rate.

Sections 7 and 8 are the provisions of the bill dealing with the Local School Support Tax (LSST). This is the sales tax that funds the K-12 education to the Distributive School Account (DSA) funding mechanism. Section 7 increases the LSST by 0.35 percent. Section 7 is the sales-tax portion of the sales-and-use tax. Section 8 is the use tax. By creating it as a separate 0.35 percent rate, it ends up increasing the current 2.25-percent rate to a 2.6-percent rate. By separating it as a separate rate, it means that the Star Bond pledges that are in place will not attach to this additional rate, which is consistent with some of the other policies that have come forward in regards to excluding the LSST from the pledges for economic development and redevelopment agencies and Star Bonds.

Section 13 is the section that is necessary to determine how much from the GST change shall be deposited into the State General Fund. Those percents are the calculations that were done to determine for each depreciation schedule by year as to how much should go to the State General Fund.

Sections 14 through 18 are technical and are necessary to implement the provisions of the GST in this bill.

The LSST has an effective date of July 1, 2009. The MBT has an effective date of July 1, 2009. The Business License Fee has an effective date of July 1, 2009. The GST has an effective date of September 1, 2009.

SENATOR CARLTON:

In a previous conversation I had with Mr. Guindon, an issue arose about employee-leasing companies and how they aggregate and the way they report their unemployment compensation. Under Chapter 612, it would designate them as individual, small companies. As the employee leasing company reporting, they would all be aggregated to a much larger amount. Even though they were a small company, they would be impacted at the top tier. Were would these small companies fall within the MBT?

MR. GUINDON:

The MBT is tied to Chapter 612 the chapter to which businesses pay their unemployment and insurance contributions. The MBT, being tied to that chapter, would be tied to how those entities are filing for their unemployment insurance. If you aggregate it and file under one unemployment insurance, you would be picked up by the Department of Taxation as one aggregated return. If you were filing as a separate business entity for the unemployment insurance, you would be filing separate MBT returns and would be taxed accordingly based on

the quarterly wages under the $62,500 limit in terms of being above or below that on a quarterly basis.

SENATOR CEGAVSKE:
How will the minimum wage affect this when it increases?

MR. GUINDON:
We did not explicitly take that into account. The analysis that was done by the Fiscal Analysis Division was that the Department of Taxation was able to provide us information on how the taxpayers were structured for Fiscal Year (FY) 2008. That information was used to apply that analysis to the Economic Forum's May 1, 2009, forecast for the MBT for FY 2010 and 2011. Those two official Economic Forum forecasts were adjusted based on analysis for FY 2008 to come up with the estimates that were provided to you for this proposal. It is true that with the increases to the minimum wage, if that would require an employer to pay additional wages, it could require and additional tax. That was not taken into account in our analysis because it would be hard to determine that impact.

SENATOR CEGAVSKE:
How does this work with holiday pay if an unusual amount of employees would be hired for seasonal work? If the payroll tax is at the lesser amount for the small business, how is that adjusted up for two months during the seasonal employment times?

MR. GUINDON:
The tax would be tied to the wages that the employer would report for the wages paid under Chapter 612. Based on the amount of quarterly wages, they would pay anything up to $62,500 at the 0.5 percent and anything over $62,500 at the 1.17 percent. If there was a quarter where additional employees were hired and you reported more wages under Chapter 612, that would generate a taxable wage that would generate a higher MBT for that quarter compared to other quarters.

SENATOR CEGAVSKE:
It would just be for each quarter.

MR. GUINDON:
Yes. The tax is based on the quarterly wages an employer reports to the Unemployment Insurance Division under Chapter 612 on a quarterly basis.

SENATOR CEGAVSKE:
Will there be new fees assessed by the Secretary of State's Office for taking this on? Has anyone discussed the accounting nightmare this is going to create for businesses? How is this going to affect them trying to keep track of what rate they are in?

MR. GUINDON:
They are reporting their wages to the Unemployment Insurance Division. The reporting requirements have a capped amount. They are required to calculate a capped amount, then pay the unemployment insurance up to that capped amount. They take their gross wages less their allowable health care and the Department of Taxation asks what the taxable wages were for that quarter. If it was less that $62,500 you write that on the line and times by 0.5. If it was $100,000 you would write down $62,500 times 0.5, then take the difference between $100,000 and $62,500 and multiply that by 1.17. The Department of Taxation needs to implement this and design a form and work with the taxpayers to make this work. I do not think it should generate any more complications than it would have under the current system or in regards to the reporting under the Chapter 612 requirements.

SENATOR CEGAVSKE:
And the Secretary of State's Office?

MR. GUINDON:
The Secretary of State would not be involved in the MBT. Are you referring to the Business License Fee that they will be collecting?

SENATOR CEGAVSKE:
Yes.

MR. GUINDON:
Since the Secretary of State will be taking it over, they will have to implement a program to be able to collect the Business License Fee. The Secretary of State knows who the people filing under Title 7 are better than the Department of Taxation. The Secretary of State testified that they took the Business License Fee as the test tax to implement the Business Portal. The Secretary of State would implement the Business Portal and pick up the Business License Fee under those entities.

SENATOR CEGAVSKE:
Is there any fiscal cost in transferring the Business Portal to the Secretary of State?

MR. GUINDON:
There is some cost to implementing this. They have provided the Fiscal Analysis Division with the estimates. That is being included as an appropriation. Assembly Bill No. 146 contains the information as to the amount that they would need.

SENATOR CEGAVSKE:
Could we get that information?
Are the financial institutions involved in the MBT? What was the reason for not including them?

MR. GUINDON:
The amount necessary for the Secretary of State was about $6 million.
From a fiscal point of view, involving the financial institutions would have lost revenue.

SENATOR CEGAVSKE:
Why would it lose revenue?

MR. GUINDON:
They are currently at 2 percent. If you treat them the same as the proposal for the MBT on general businesses and nonfinancial businesses, they would be taken down to the 0.5 and 1.17 percent. That would have lost about $18 to $19 million over the biennium.

SENATOR NOLAN:
Is the amount of the GST that is diverted to the State General Fund just the amount over and above what is currently collected?

MR. GUINDON:
Yes. There is a constitutional limit of 5 percent. The 4-cent tax being proposed is the basic GST. There is authorization for the additional 1 cent of which Clark County is one of the entities imposing that. The constitutional 5 cents is already obligated. The way to generate additional revenue through the GST is by making changes to the depreciation schedule. The amount of money that is estimated to go to the State General Fund is only that amount that comes from changing the depreciation schedule. The amounts that are under current law go to K-12 education and to the counties and cities through the Consolidated Tax Distribution account, and they are being held harmless under this proposal. This is calculating the percent that is estimated to come from the depreciation change that should go to the State General Fund leaving the money that should remain for distribution to the school districts and counties alone.

SENATOR NOLAN:
How much revenue does that generate?

MR. GUINDON:

It is estimated that it would generate approximately $42.8 million in FY 2010. That is because it has a September 1 effective date, so there are only 10 months of revenue. In FY 2011, it would generate approximately $51.4 million, which is approximately $94.3 million over the next biennium.

SENATOR NOLAN:

Our State Highway Fund is in about as bad a shape as our State General Fund. When, if at all, does that money revert into the Highway Fund?

MR. GUINDON:

Under the bill as drafted, it does not expire. It would remain in the State General Fund until the Legislature chose to take action to change that result.

SENATOR RAGGIO:

We have worked from the beginning of this Session on a mission we all shared. That mission was to address this revenue shortfall, to review the Executive Budget and, when necessary, to make changes to develop a budget that, collectively, we felt addressed essential services.

We met in long meetings called "the core group" consisting of leaders of the respective caucuses who met with Fiscal Staff and others who gave us important input. We addressed the needs that were evident in the Governor's budget as well as the Governor's revised budget, which was furnished to us recently. No apologies need to be made for the effort that was put forth on a bipartisan basis with representatives from both Houses of this Legislature. Some serious cuts were made. Some add-backs were made when they were essential, particularly in the major components of our budget. Those areas included health and human services, as well as public safety and primarily education, which includes K-12 and higher education. At an early point, we recognized that any new revenues would have impact upon those who have to pay them, whether it is the components in the business sector or not. Any revenue-enhancement project we felt should carry the least possible fiscal impact upon those who have to pay these taxes.

From the day we began this process, I have indicated that I would be supportive of a tax plan if it had certain components. First, the plan had to apply to existing taxes, not to any new taxes. After structuring the budget, we recognized that a limit of approximately $390 million a year over the biennium, or a total of $780 million, would be required to fund an essential-services budget.

For me to approve any tax plan, it would have to be on existing taxes and the taxes would have to be temporary. Some of the cuts in the budgets, particularly those involving pay cuts, which are furloughs, and the reductions in payroll funding, would have to be temporary. I made a firm commitment not only to the group with which we were working, but publicly, particularly to the constituencies I represent, that any taxes increase would sunset at the end of this biennium, which would be June 30, 2011. The next Legislature will convene in February 2011, and it can receive the Economic Forum projection, which will come in December of 2010. They will determine whether it will be necessary to reinstate those tax increases or whether additional revenue of any kind will be needed. That gives the next Session of the Legislature four to five months to make that determination.

As a condition of my support for this bill, in addition to the sunset provision, I will support the measure only if there is a meaningful study of all our revenues, both local and State, of how the funds are allocated between local and state governments and of the needs of the State as well as local governments. It should be a comprehensive study that would not be influenced by members of the Legislature or by special interest groups. For that reason, I introduced Senate Bill No. 399, which set forth a number of criteria and objectives that a study by an independent consultant could provide to us. In the 1980s, Price Waterhouse and the Urban Institute conducted studies for us. There have been several other studies over the years. Most of them had special-interest group sponsorship. That is something I want to avoid in the future. If we are going to be looking at long-term changes in our tax policies, we need to start with something that the public knows to be credible, is not unduly influenced and must be meaningful. Those are my prerequisites to supporting any tax plan for the budget that we have structured.

I had two concerns that were not included in the version that was introduced in Senate Bill No. 429. My proposed amendment would do two things. First, it would sunset the major components of this bill, the LSST and the MBT increases and the increase in the Business License Fee. As to the depreciation schedule of the GST, the amendment would allow the increase in revenue to continue to go to the State General Fund for four years. After that, it would revert to the Highway Fund. I have a proposed amendment, Amendment No. 5320, that will put in place in this bill these sunset provisions. I have another amendment, Amendment No. 5322, that encompasses the provisions of Senate Bill No. 399 and would authorize funding as available, envisioning $500,000 for a meaningful study. That would include all of the objectives that would be appropriate to establish the kind of credibility and the report that would be necessary if the next session of the Legislature feels a need to reform our tax base. They would then be able to determine the need, if any, for new taxes.

The Chair had a more comprehensive request submitted, but as I analyzed it, I took issue with some of those objectives and discussed those issues with our Chair. I have been told there is some agreement on the study that would not specify or direct new taxes by name. I would be open to discuss what might be appropriate to meet everyone's concerns but would constitute a long-term plan.

I will not be able to vote for the current tax plan that is before us. Reform of the PERS and PEBS and collective bargaining must also be addressed for me to support this bill. We reviewed the proposal and discussed it with our Legislative Counsel. Reforms must be adopted as a precondition to accepting the tax plan.

At the appropriate time, I will be prepared to offer Amendment No. 5320.

SENATOR HORSFORD:

Thank you, Senator Raggio. The members of the Committee have those amendments. There is an additional amendment that we would also like to consider.

SENATOR WASHINGTON:

I am concerned about the sales tax in the contracts for commodities. The suggestion was to include them in section 7 and section 8 of the bill so that those existing contracts can operate under the same sales-tax structure under which we currently operate.

SENATOR HORSFORD:

Mr. Guindon, is that something you can respond to or is that something for Legal Counsel to answer?

MR. GUINDON:

That would be more appropriate for Legal Counsel to respond to, but it would be something that the members of this body can consider as a proposed amendment along with the other amendments being considered.

SENATOR HORSFORD:

That is, initially, a question?

SENATOR WASHINGTON:

It is a question, and it is a concern as we consider the other amendments that are before us. I would like to forward this recommendation to amend the current bill to include these contract commodities.

SENATOR HORSFORD:

We will recess so that Legal Counsel may address the questions of the members.

Senator Horsford recessed until the call of the Chair at 12:19 p.m.

Senator Horsford called the Committee back to order at 12:41 p.m.

SENATOR HORSFORD:

Senator Washington, you may repeat your question for Legal Counsel.

SENATOR WASHINGTON:

After speaking with Legal Counsel, there are provisions in existing NRS that we can use to amend Senate Bill No. 429. This deals with existing contracts for commodities so that they can work within the existing sales-tax structure.

BRENDA ERDOES (Legal Counsel):

Currently, in Chapter 374, which would apply to this, there is a provision that says that tangible personal property used in construction contracts is exempt from these increases to the extent that there is a written contract and there would be a loss as to the sales tax because the rate of the contract is not negotiable. They are bound by it. We propose to add other tangible personal property not in construction projects. The language would be what we used in 1981, which worked for the Department of Taxation. It would read that they "are exempted from the additional taxes imposed by the amendment to this Chapter; the gross receipts from the sale of and the storage use or other consumption in a county of tangible personal property used in the performance of a written contract entered into prior to June 30, 2009." That would be all that would be needed to add to make certain that if you had a written contract on or before that date, then, the sales tax went up adversely affecting the contract, you would be exempt. You would have to take that contract and work with the Department of Taxation to either use your wholesale certificate or get a rebate of that tax from the Department.

SENATOR HORSFORD:

I will request that we draft an amendment that addresses this issue and that it be considered with this bill.

SENATOR WASHINGTON:

Ms. Vilardo raised a concern during our last hearing about the MBT about NRS 363B and 363A. One deals with nonfinancial institutions and one deals with financial institutions. I understand that there would be a significant loss in revenue if we tried to treat those financial institutions the same as the nonfinancial institutions. Within the study, we should look at the inequity of nonfinancial institutions versus financial institutions. Perhaps, they can give us some recommendations as to how we can make them equitable.

SENATOR HORSFORD:

Your recommendation is on the nonfinancial portion of the MBT, to include a provision to study the rate for financial versus nonfinancial institutions on the rate of the MBT. Is that correct?

SENATOR WASHINGTON:

That is correct.

SENATOR HORSFORD:

I will direct Legal Counsel to prepare an amendment on the first item discussed about the collection issue. We will hold on the study language for discussion at a later date.

SENATOR COFFIN:

I endorse the concept approached by Senator Washington. It makes sense. This issue has been standing out there for six years like a sore thumb. There should be treatment so that we can create equity.

SENATOR SCHNEIDER:

We have 100,000 people in this State in employee-leasing companies. Will there be regulations drafted so that each company would be able to have their employees under a contract? An employee-leasing company may have 3,000 employees, but the employees are assigned to different companies. Would regulations be drafted so that each company would have their 50 employees or 25 employees calculated under their workers' compensation, etc., for this bill? Or, will that come under a trailer bill, later, defining that?

MRS. ERDOES:
As currently drafted, the Department of Taxation would not be able to adopt a regulation that changed the structure under which you paid for employee-leasing companies unless they change the structure under which they operated. If that is something you want to add at some point, you could.

SENATOR SCHNEIDER:
Would that come in a trailer bill next week or would it be amended now?

MRS. ERDOES:
We can put in a trailer bill if requested, or something else, but it would take a change.

SENATOR HORSFORD:
Due to time limits, we may consider this separately.

SENATOR CARLTON:
The answer we received earlier on this issue was that the employees would be tied to their employer through Chapter 612, which is their unemployment compensation. Whoever is covering their unemployment would be their employer and that employer's payroll would fall within the guidelines of the new proposed MBT. That has been addressed.

SENATOR HORSFORD:
Mr. Guinden, will you elaborate on that point?

MR. GUINDON:
It was discussed earlier that the MBT is tied to Chapter 612. The language for how the wages are reported under Chapter 612 for unemployment insurance tax is the taxable wages that would be subject to the MBT with regards to the proposal in Senate Bill No. 429.

SENATOR HORSFORD:
May we have an explanation on proposed Amendment No. 5328?

SENATOR LEE:
I would like commend the senator from Washoe District 3. He is a fine statesman, and I know he has made commitments. He is the kind of senator I like to have. You can trust him. You can depend on him. However, I have also made commitments to the voters. I agree with him, but I have another idea.

Section 13 currently requires the incremental increase in the GST be distributed to the State General Fund. Section 18.5 of the mock-up in this amendment redistributes that increment to the State Highway Fund after the first four years. On page 14, it says, "If the Economic Forum indicates in the revenue forecast projects, May 1, 2011, that there will be adequate revenues to fund the State General Fund of the State government for 2011-2013 biennium, the taxes imposed by the 75th Legislative Session of the Nevada Legislature shall sunset on June 30, 2011."

The difference between this amendment and the amendment of the Senator from Washoe District 3 is that this amendment uses the Economic Forum forecast projections. I do this to make certain we are out of this economic downturn. This is prudent financial planning. When we recover from this downturn, I propose with this amendment to sunset these taxes. I wanted a six-year timeframe, but realized that we could recover a little faster.

SENATOR HORSFORD:
In the mock-up of Amendment No. 5328, which is different from the handout you have referred to, the Economic Forum projection would be based on the determination made by the Economic Forum on or before December 1, 2010.

SENATOR LEE:
Yes, that is right.

SENATOR HORSFORD:
What is the page number of the mock-up?

SENATOR LEE:
I was discussing page 14, lines 11-25. The biggest difference is that I am not asking for an interim study.

SENATOR RAGGIO:
I am not going to indicate accedence to your proposal. How will they know when the Economic Forum makes its projections on or before December 1, 2010, what the authorized expenditures from the State General Fund will be for the 2011-2013 biennium?

SENATOR LEE:
I would like to have Legal Counsel respond to that.

MRS. ERDOES:
The language in the mock-up requires that the Economic Forum, in addition to their December 1, 2010 forecast, determine whether their forecast of revenues—minus the incremental increases in the MBT, the Business License Fee and the LSST that we are discussing to sunset—would be sufficient to fund the budget at the current level. These provisions will sunset for the incremental increase. The projection is made at that time so that the Governor's budget could be proposed based on that as well, so he would know whether to include the amount of revenue that is raised by the incremental increases in these three taxes in this bill.

SENATOR RAGGIO:
I do not think that answers my question. On December 1, 2010, the Economic Forum makes its projection. How will they know whether those appropriations are sufficient to fund the 2011-2013 biennium budget? That information would not be available until sometime in May of 2011.

MRS. ERDOES:
You take the Governor's budget for that biennium, that is the amount you are comparing by, the Governor's proposed budget for the 2011-2013 biennium; then, they would compare their projected revenues as of that date, December 1, 2010, minus the amount of incremental increases that are in these taxes projected for the 2011-2013. The basic formula would be their projections of revenue for 2011-2013 biennium minus the amount of that money that is attributable to these incremental increases in these three taxes. The question is whether that amount would cover the amount that it would cost to fund the Governor's proposed budget for the same biennium.

SENATOR RAGGIO:
The emphasis is upon the increases? There is no question that the Governor has to use the funding that is projected by the Economic Forum. There is no question that the Governor's budget is based upon the Economic Forum's projections. We are only talking about the increments funded by these tax increases. Is that it?

MRS. ERDOES:
Yes.

SENATOR HORSFORD:
Any other questions?

SENATOR RAGGIO:
I will not submit the amendment about the study if we have assurance that we can work together to achieve an appropriate long-term study on the tax issues.

SENATOR HORSFORD:
You have my full commitment to work with you on language that is mutually agreeable on the study commission process for the interim. Amendment No. 5322 is withdrawn to Senate Bill No. 429.

Senator Raggio moved to amend Senate Bill No. 429 with Amendment No. 5320 that would sunset the major components of the bill and allow the increase in the GST to go to the General Fund for four years.

Senator Hardy seconded the motion.

Motion carried unanimously.

SENATOR HARDY:

We have two amendments that are similar. I support the sunsets. They are an important part of this component. What Senator Lee has offered is better than no sunset provision. I think the other proposal I helped present is a little better.

If these other two amendments conflict, how do we determine which will prevail?

SENATOR HORSFORD:

I do not know whether they conflict. I plan to have us take a vote on Amendment No. 5320. Should that amendment pass, your question is, is there conflicting language based on the proposal being offered by Senator Lee? If the motion on the table fails, then we will take up consideration on the other.

SENATOR HARDY:

That answers my question.

SENATOR NOLAN:

On Amendment No. 5320, was I correct in hearing that in your amendment the balance of the GST after four years, will revert to the Highway Fund?

SENATOR LEE:

That is correct.

SENATOR NOLAN:

I was unable to find that information in the amendment.

MR. GUINDON:

That is in section 20, subsection 5 and 6. Those sections become effective July 1, 2013. They have language that would require the incremental revenue from the changes to the GST to start going to the State General Fund. Subsection 6 expires. That was the section putting the money in the State General Fund. Those are the two sections that control the GST concerning State General Fund and Highway Fund allocations.

SENATOR NOLAN:

I will support the motion on the floor. Both of these amendments contain important items. The sunset provision is a time certain and requires us as a body to use the information from the Economic Forum, though not solely the information from the Economic Forum, to reassess the State's economic financial situation. There may be some confusion in regards as to how the data from the Forum would be used in reassessing the tax package. It is better policy for this to come back to the Legislature to be reviewed. In light of the economic problems we have had prior to this economic downturn, one of the most important issues was our inability to fund our highway infrastructure needs. It has gotten worse. I will look for a motion to incorporate taking the GST and reverting it after four years to the Highway Fund.

SENATOR CARE:

As to the Amendment No. 5230, I participated a little bit in the discussions within the core group. The Minority Leader had interest, as did many people, in the sunset provision in whatever bill there might be for the budget. A sunset provision is significant. It is a way for this body to express a hope that eventually times will change.

The language in Amendment No. 5230, not in section 18, which is the GST, for that language is the same in both amendments, says "two years." Senator Nolan uses the phrase "a time certain." The problem is we do not have a time certain because we do not have an economy that is certain. The distinction between the two proposed amendments is that we have a definite

cutoff as opposed to an examination by the Economic Forum and projections by that body. That is something that I am not capable of doing.

I have engaged in debate with the distinguished Minority Leader for more than a decade. I usually lose. I have enjoyed our discussions, and this may be the last time I may be able to have these discussions with him. While I oppose your proposed amendment, you will always be State Senator No. 1. I respect you deeply. Because of these economic times, however, the better amendment is that proposed by Senator Lee when it comes to the sunset provision.

SENATOR HARDY:

The sunset is a critical part of my ability to be able to support the tax package. While I have a great deal of respect for the Chair of Government Affairs, information I have available to me, today, indicates there will not be revenues sufficient to fund the State General Fund next time. While it is not the intent to mislead the public that we intend to sunset these, it is a convenient way to get around that fact. I cannot support a tax package without a true sunset so the next Legislature can review our actions, continue the taxation if necessary and have a meaningful debate.

While Senator Lee's amendment is a good-faith effort, in light of what the Assistant Majority Leader has said, it may even be a better approach from a policy perspective, the commitment I have made that in these tough economic times, we have to do some things on taxation that are difficult for all of us. I believe we will get through these tough economic times.

If we could delay this Legislative Session by six to eight months, we might have been able to do some different things on both the budget and the taxes. I understand that we are not binding any future Legislators, and they will have the ability to do that. It is important that this Legislature is compelled to come back to address these issues. If this fails, I can support Senator Lee's amendment because it is better than no sunset at all. I will support Amendment No. 5320. Without this type of sunset mechanism, I will not be able to support the tax package.

Motion failed on the division of the Committee.

Senator Washington moved to have a roll call vote on Amendment No. 5320.

Senator Hardy seconded the motion.

Motion failed.

Senator Lee moved to amend Senate Bill No. 429 with Amendment No. 5328.

Senator Carlton seconded the motion.

Motion carried.

Senator Washington moved to amend Senate Bill No. 429 with conceptual language dealing with the collection issue.

Senator Cegavske seconded the motion.

Motion carried.

On the motion of Senator Wiener and second by Senator Coffin, the Senate Committee of the Whole did rise, return and report back to the Senate.

Committee of the Whole adjourned at 1:18 p.m.

SENATE IN SESSION

At 1:30 p.m.

President Krolicki presiding.

Quorum present.

SPECIAL ORDERS OF THE DAY

VETO MESSAGES OF THE GOVERNOR

The hour of 1:31 p.m. having arrived, Vetoed Assembly Bills Nos. 122, 257 and 480 of the 75th Session were considered.

Vetoed Assembly Bill No. 122 of the 75th Session.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA, 89701

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*
Legislative Building, Carson City, Nevada 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill No. 122, which is entitled:

AN ACT relating to the Office for Consumer Health Assistance; expanding the definition of "consumer" to include more situations in which assistance may be rendered; expanding the authority of the Director of the Office for Consumer Health Assistance to adopt necessary regulations; making various other changes relating to the Office for Consumer Health Assistance; and providing other matters properly relating thereto.

This bill would expand the authority of the Office for Consumer Health Assistance. In my executive budget, I proposed to eliminate this office for two reasons. First, this office, in some instances. provides duplicative services to the public. Second, this office, while important, is not an essential governmental service that the State of Nevada can afford to fund in thee tough economic times. Consequently, there is no reason to expand the scope of the Office for Consumer Health Assistance when this office was recommended for closure in the Executive Budget.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill No. 122.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate sustained the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 122 of the 75th Session

YEAS—12.

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

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 257 of the 75th Session.

Bill read.

Governor's message stating his objections read.

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*
Legislative Building, Carson City, Nevada 89701

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill No. 257, which is entitled:

AN ACT relating to crimes, prohibiting the taking of an excessive number of certain free publications under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

This bill would expand make it a crime for a person to take more than ten copies of a free or complimentary periodical. Our law enforcement professionals should be focusing their limited time and resources on the prevention of major crimes and the protection of the public, particularly in these times when funding for law enforcement has been negatively impacted due to decreased government revenues. I do not see any benefit to the public by requiring our law enforcement professionals to investigate and prosecute the type of activity described in Assembly Bill 257.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill No. 257.

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate sustained the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 257 of the 75th Session:

YEAS—12.

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

Bill ordered transmitted to the Assembly.

Vetoed Assembly Bill No. 480 of the 75th Session.

Bill read.

Governor's message stating his objections read.

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*
Legislative Building, Carson City, Nevada 89701

Re: Assembly Bill No. 480 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill No. 480, which is entitled:

AN ACT relating to water, revising the fees collected by the State Engineer, and providing other matters properly relating thereto.

This bill would enact severely new and increased fees collected by the State Engineer with respect to water and water appropriation. I am not aware of any significant support by industry for any of the increased and additional fees contained in Assembly Bill 480. Moreover, a comparative study of western states places Nevada in the average range for these types of fees. Simply put, adding and increasing these fees during tough economic times just does not make economic sense.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill No. 480

Sincerely,
JIM GIBBONS
Governor of Nevada

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the Governor's veto by the following vote:

Roll call on Assembly Bill No. 480 of the 75th Session:

YEAS—21.

NAYS—None.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 1:38 p.m.

SENATE IN SESSION

At 1:42 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 560, 562, 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 referred Assembly Bill No. 547, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 21, 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. 363, 370, 371.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 422.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved to take Assembly Bills Nos. 560, 562 from their positions on the General File and place at the top of the General File.

Motion carried.

Senator Care moved to place Assembly Bill No. 543 at the top of the General File.

Motion carried.

Senator Care moved to consider General File first on the agenda.

Motion carried.

Senator Washington moved that Senate Bill No. 311 be taken from the General File and placed at the bottom of the General File on the next agenda.

Motion failed.

GENERAL FILE AND THIRD READING

Assembly Bill No. 560.

Bill read third time.

Remarks by Senators Lee and Amodei.

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

SENATOR LEE:

The money we are taking from Clark County and Washoe County is a tremendous amount of money. Douglas County, Elko County and some of the other counties should have and could have been involved in this process. A lot of cities have been left out. This is a huge mistake not to make this a statewide imposition.

SENATOR AMODEI:

I think it is a huge mistake too, but I think it is a huge mistake that we are balancing our problems by dipping down to the level of government closest to the citizens of the State of Nevada. As I look at how various cities and counties in the State are dealing with these issues, I do not see them dipping into homeowners' associations, general improvement districts and other subsets of their own revenue sources to solve their problems. It is a sad day for local governments.

Roll call on Assembly Bill No. 560:

YEAS—21.

NAYS—None.

Assembly Bill No. 560 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 562.

Bill read third time.

Roll call on Assembly Bill No. 562:

YEAS—16.

NAYS—Amodei, Cegavske, McGinness, Rhoads, Washington—5.

Assembly Bill No. 562 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 543.

Bill read third time.

Remarks by Senator Amodei.

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

I understand the amount of hard work the Committee has put into this bill, and I appreciate the efforts to reduce the cuts originally proposed, but as I look through this bill I note that the Department of Cultural Affairs on page 4, line 43, started this Session out at 0.4 percent of the

General Fund. The Governor's proposal was draconian, and I want to thank the members of the committees for putting back as much into the budget as they did, but the bill still represents about a 22 percent to 25 percent cut. This is one example of the fairness issue I discussed previously. Some might say, "Since when are budgets fair?" This is the first time I have been here as a member of the Legislature where we have had to deal with these cuts. In the past, we discussed who had the biggest piece of the pie in terms in increases. Cuts in the smaller departments are harder to hide. The effects are devastating. Though I understand how the downturn has affected these areas, other areas of the budget have faired much better. It would have been my value judgment to fix an area like this in Cultural Affairs by keeping this $500,000. I think we could have done a better job. I oppose Assembly Bill No. 543.

Roll call on Assembly Bill No. 543:

YEAS—14.

NAYS—Amodei, Care, Cegavske, Lee, McGinness, Rhoads, Washington—7.

Assembly Bill No. 543 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that all rules be suspended and that Assembly Bills Nos. 543, 560, 562 be immediately transmitted to the Assembly.

Motion carried unanimously.

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

Senate in recess at 1:52 p.m.

SENATE IN SESSION

At 2:03 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved to place Assembly Bill No. 547 with Amendment No. 925 on the Second Reading File on this agenda.

Motion carried.

Senator Care moved to continue with the regular Order of Business.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 422.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bill No. 25 be taken from the Second Reading File and placed on the Second Reading File on the third agenda.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 547.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 925.

"SUMMARY—Revises provisions governing the ~~[distribution of proceeds collected from fees that must be paid to reinstate]~~ *renewal of* the registration of a motor vehicle ~~.~~ ~~[in certain circumstances.]~~ (BDR 43-1289)"

"AN ACT relating to state financial administration; ~~[revising provisions governing the distribution of proceeds collected from fees that must be paid to reinstate the registration of a motor vehicle that has been suspended for failure to have proper insurance;]~~ revising provisions governing the renewal of the registration of a motor vehicle; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a fee of $250 to reinstate the registration of a motor vehicle that was suspended because the registered owner failed to have insurance on the date specified in the form for verification that was mailed to the owner, and for a fee of $50 for a registered owner of a dormant vehicle who cancelled or allowed the insurance coverage to expire before cancelling the registration of the vehicle. (NRS 482.480) The proceeds collected from the fees are deposited in the Account for Verification of Insurance and used to carry out the provisions of law relating to proof of insurance for motor vehicles. ~~[Section 1.5 of this bill revises the manner in which the money in the Account may be used so that it may be used, within the limits of legislative appropriation, only to pay for expenses related to the operation of the Department of Motor Vehicles. Section 2 of this bill repeals a provision which requires the State Controller to transfer annually any amount in the Account which exceeds $500,000 to the State Highway Fund. Section 1 of this bill reenacts the repealed provision effective July 1, 2011.]~~

Sections 1.3 and 1.7 of this bill revise provisions governing the renewal of *the* registration of motor vehicles ~~.~~ ~~[.]~~ *to require, in relevant part, that a notification for the renewal of registration which is mailed to the holder of a certificate of registration must set forth certain information concerning: (1) the requirement to maintain motor vehicle liability insurance pursuant to NRS 485.185; and (2) any other applicable requirements set forth in chapter 485 of NRS and any regulations adopted pursuant thereto.*

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

Section 1. ~~[Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds $500,000.]*~~ *(Deleted by amendment.)*

Sec. 1.3. NRS 482.280 is hereby amended to read as follows:

482.280 1. The registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall mail to each holder of a certificate of registration ~~[an application]~~ *a notification* for renewal of registration for the following period of registration. The ~~[applications]~~ *notifications* must be mailed by the Department in sufficient time to allow all applicants to mail the ~~[applications]~~ *notifications* to the Department *or to renew the certificate of registration at a kiosk or authorized inspection station or via the Internet or an interactive response system* and to receive new certificates of registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the ~~[application]~~ *notification* to any agent or office of the Department.

2. ~~[An application:]~~ *A notification:*

(a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;

(b) Submitted to the Department pursuant to NRS 482.294; or

(c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281,

➥ must include, if required, evidence of compliance with standards for control of emissions.

3. The Department shall ~~[insert in each application]~~ *include with each notification* mailed pursuant to subsection 1:

(a) The amount of the governmental services tax to be collected for the county pursuant to the provisions of NRS 482.260.

(b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484.444.

(c) A statement which informs the applicant ~~[that,]~~ :

(1) That, pursuant to NRS 485.185, he is legally required to maintain insurance during the period in which the motor vehicle is registered ~~[.]~~ *which must be provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State* ~~[.]~~ *and*

(2) Of any other applicable requirements set forth in chapter 485 of NRS and any regulations adopted pursuant thereto.

4. An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by

the Department as it may find necessary for the issuance of the new plate or plates or card of registration.

Sec. 1.5. ~~[NRS 482.480 is hereby amended to read as follows:~~

~~482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:~~

~~1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of $33.~~

~~2. Except as otherwise provided in subsection 3:~~

~~(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of $16.50.~~

~~(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of $12.~~

~~(c) For each of the ninth or more such cars registered to a person, a fee for registration of $8.~~

~~3. The fees specified in subsection 2 do not apply:~~

~~(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all of the cars registered to him.~~

~~(b) To cars that are part of a fleet.~~

~~4. For every motorcycle, a fee for registration of $33 and for each motorcycle other than a trimobile, an additional fee of $6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.~~

~~5. For each transfer of registration, a fee of $6 in addition to any other fees.~~

~~6. Except as otherwise provided in subsection 9 of NRS 485.317, to reinstate the registration of a motor vehicle suspended pursuant to that section:~~

~~(a) A fee of $250 for a registered owner who failed to have insurance on the date specified in the form for verification that was mailed by the Department pursuant to subsection 3 of NRS 485.317; or~~

~~(b) A fee of $50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,~~

~~→ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account [must] *may only* be used [to carry out the provisions of NRS 485.313 to 485.318, inclusive.] *by the Department of Motor Vehicles, within the limits of legislative appropriation, to pay for expenses related to the operation of the Department.*~~

~~7. For every travel trailer, a fee for registration of $27.~~

~~8. For every permit for the operation of a golf cart, an annual fee of $10.~~

~~9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of $33.~~

~~10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of $33.]~~ *(Deleted by amendment.)*

Sec. 1.7. NRS 485.137 is hereby amended to read as follows:

485.137 1. The department shall publish a leaflet which summarizes and explains the requirements and provisions of this chapter.

2. The department shall:

(a) Make copies of the leaflet available without charge to all licensed drivers in this State, to all public school pupils who are of driving age, and to the public.

(b) Cause a copy of the leaflet to be delivered to each applicant for a new registration of a vehicle.

~~[(c) Enclose a copy of the leaflet with each]~~ ~~[application for a]~~ ~~*[notification for*~~ ~~renewal of registration of a vehicle which is mailed to the applicant pursuant to law.]~~

Sec. 2. ~~[NRS 482.4805 is hereby repealed.]~~ *(Deleted by amendment.)*

Sec. 3. 1. This section and sections 1.3 to 2, inclusive, of this act become effective on July 1, 2009.

2. Section 1 of this act becomes effective on July 1, 2011.

~~TEXT OF REPEALED SECTION~~

~~482.4805 Transfer of money from Account for Verification of Insurance to State Highway Fund. On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds $500,000.]~~

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Mathews.

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

This deals with revising the distribution of proceeds collected from fees that must be paid to reinstate the registration of motor vehicles.

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.

The amendment deletes section 12 of the bill, relating to involuntary transfer, and 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.

When the amendment was before us a few days ago, there was a question as to what were seasonal employees and were they excluded in this amendment. Seasonal employees are excluded, and we checked with the Clark County School District. They do not use the term "seasonal employee." The Washoe County School District does. An example of a seasonal employee would be an athletic trainer who only works for the football season.

Attempts have been made during the past few weeks to develop a compromise on this bill. A further attempt was made yesterday to no avail. This is the best we can do regarding this measure.

SENATOR CEGAVSKE:

Thank you, Mr. President. I would like to thank the Chair for trying to get both parties together to come up with compromises. Unfortunately, there were no compromises.

I have many concerns with this amendment. Many things are not appropriate about this bill. Section 9 was dismissed from the original bill and was put back into the bill as section 8.5. Section 5 has several issues with definition of school employees. Currently, part-time employees are not covered by collective bargaining, but this would bring them in. There are issues with section 7. It broadly defines disciplinary action. In section 9, which is now section 8.5, there is

an issue with how many days beyond are added for the suspensions. One of the biggest issues is the 48-hour notice requirement for almost every circumstance. If an administrator has an issue with a teacher, the administrator must give a 48-hour notice to discuss the issue with the teacher. If an administrator wants to correct a teacher who is showing a video or who has dress-code violations, a 48-hour notice has to be given. This is wrong.

I agree there are issues with administrators and teachers, but this bill does not take care of those issues. I urge you to vote "no" on the amendment and the bill.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Joint Resolution No. 6.

Resolution read second time.

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

Amendment No. 756.

"SUMMARY—Proposes to amend the Nevada Constitution to revise provisions concerning legislative sessions. (BDR C-67)"

"ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to provide for annual legislative sessions ~~[and]~~ *of not more than 120 consecutive calendar days in odd-numbered years and 60 consecutive calendar days in even-numbered years,* to provide for compensation for serving during each *day of such* regular legislative ~~session.]~~ *sessions, to revise the payment of certain allowances to Legislators during legislative sessions and to provide that regular legislative sessions must be adjourned on the final calendar day not later than midnight Pacific time based on the actual measure of time used and observed by the general population of Nevada."*

Legislative Counsel's Digest:

~~[Existing provisions of the]~~ *The* Nevada Constitution ~~[provide]~~ *provides* for biennial legislative sessions ~~[of 120 days and authorize members of the Legislature to receive compensation for the first 60 days of each regular session.]~~ *of not more than 120 consecutive calendar days in each odd-numbered year.* This resolution proposes to amend the Nevada Constitution to provide for annual legislative sessions of *not more than* 120 *consecutive calendar* days in each odd-numbered year and of *not more than* 60 *consecutive calendar* days in each even-numbered year. (Nev. Const. Art. 4, § 2) ~~[The resolution further]~~

The Nevada Constitution provides that regular sessions must be adjourned on the final calendar day not later than "midnight Pacific standard time." (Nev. Const. Art. 4, § 2) The Nevada Supreme Court has held that when the State is observing daylight saving time on the final calendar day of a session, the Legislature is not required to adjourn the session when the clock strikes midnight for the general population of Nevada but may continue the session until 1:00 a.m. Pacific daylight saving time because such time is equivalent

to "midnight Pacific standard time." (Nevada Mining Ass'n v. Erdoes, 117 Nev. 531 (2001))

This resolution proposes to amend the Nevada Constitution to provide that regular sessions must be adjourned on the final calendar day not later than "midnight Pacific time," which must be determined based on the actual measure of time that is being used and observed by the general population of Nevada within the Pacific time zone or, in other words, the time on the clock. This resolution also provides that the Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts, evades or ignores the time on the clock for the purpose of extending the duration of the session.

The Nevada Constitution authorizes Legislators to receive compensation for the first 60 days of each regular session and the first 20 days of any special session. This resolution proposes to amend the Nevada Constitution to ~~[provide compensation for]~~ *authorize* Legislators *to receive compensation for not more than 120 days of each regular session in an odd-numbered year and for not more than* 60 days ~~[during regular sessions.]~~ *of each regular session in an even-numbered year.* (Nev. Const. Art. 4, § 33)

The Nevada Constitution provides for the payment of the expenses of each Legislator for postage, express charges, newspapers and stationery of not more than $60 per session, and it also provides for the payment of an additional allowance of $2 per day to the presiding officers of each House. This resolution proposes to amend the Nevada Constitution to eliminate the additional allowance for the presiding officers and to authorize an increase in the payment for postage, express charges, newspapers and stationery. (Nev. Const. Art. 4, § 33)

If this resolution is passed by the 2009 Legislature, it must also be passed by the next Legislature and then approved and ratified by the people in an election, before the proposed amendments to the Nevada Constitution become effective.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 2 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. The sessions of the Legislature shall be ~~[biennial,]~~ *annual*, and shall commence on the 1st Monday of February , ~~[following the election of members of the Assembly,]~~ unless the Governor of the State shall, in the interim, convene the Legislature by proclamation.

2. The Legislature shall adjourn sine die each regular session *held in an odd-numbered year* not later than midnight Pacific ~~[standard time 120 calendar days following its commencement.]~~ *time at the end of the 120th consecutive calendar day of that session, inclusive of the day on which that session commences.* Any legislative action taken after midnight Pacific ~~[standard time on]~~ *time at the end of* the 120th *consecutive* calendar day *of that session* is void, unless the

legislative action is conducted during a special session convened by the Governor.

3. *The Legislature shall adjourn sine die each regular session held in an even-numbered year not later than midnight Pacific* ~~*[standard time 60 calendar days following its commencement.]*~~ *time at the end of the 60th consecutive calendar day of that session, inclusive of the day on which that session commences. Any legislative action taken after midnight Pacific* ~~*[standard time on]*~~ *time at the end of the 60th consecutive calendar day of that session is void, unless the legislative action is conducted during a special session convened by the Governor.*

4. The Governor shall submit *:*

(a) In odd-numbered years, the proposed executive budget *; and*

(b) In even-numbered years, any proposed appropriations or proposed revisions to the executive budget,

➥ to the Legislature not later than 14 calendar days before the commencement of each regular session.

5. For the purposes of this section, "midnight Pacific time" must be determined based on the actual measure of time that, on the final calendar day of the session, is being used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the seat of government of this State as designated by Section 1 of Article 15 of this Constitution. The Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts, evades or ignores this measure of time for the purpose of extending the duration of the session.

And be it further

RESOLVED, That Section 33 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec . ~~[:]~~ 33. The members of the Legislature shall receive for their services ~~[,]~~ a compensation to be fixed by law and paid out of the public treasury, for not to exceed ~~[60]~~ *120* days during any regular session of the ~~[legislature]~~ *Legislature conducted during an odd-numbered year, not to exceed 60 days during any regular session of the Legislature conducted during an even-numbered year,* and not to exceed 20 days during any special session convened by the ~~[governor;]~~ *Governor;* but no increase of such compensation shall take effect during the term for which the members of either house shall have been elected *;* Provided, that an appropriation may be made for the payment of such actual expenses as members of the Legislature may incur for postage, express charges, newspapers and stationery *.* ~~[not exceeding the sum of Sixty dollars for any general or special session to each member; and Furthermore Provided, that the Speaker~~

~~of the Assembly, and Lieutenant Governor, as President of the Senate, shall each, during the time of their actual attendance as such presiding officers receive an additional allowance of two dollars per diem.]~~

And be it further

RESOLVED, *That Section 6 of Article 11 of the Nevada Constitution be amended to read as follows:*

Section 6. 1. In addition to other means provided for the support and maintenance of said university and common schools, the legislature shall provide for their support and maintenance by direct legislative appropriation from the general fund, upon the presentation of budgets in the manner required by law.

2. During a regular session of the Legislature ~~[,]~~ *in an odd-numbered year*, before any other appropriation is enacted to fund a portion of the state budget for the next ensuing biennium, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium.

3. During a special session of the Legislature that is held between the end of a regular session *in an odd-numbered year* in which the Legislature has not enacted the appropriation or appropriations required by subsection 2 to fund education for the next ensuing biennium and the first day of that next ensuing biennium, before any other appropriation is enacted other than appropriations required to pay the cost of that special session, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium.

4. During a special session of the Legislature that is held in a biennium for which the Legislature has not enacted the appropriation or appropriations required by subsection 2 to fund education for the biennium in which the special session is being held, before any other appropriation is enacted other than appropriations required to pay the cost of that special session, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the population reasonably estimated for the biennium in which the special session is held.

5. Any appropriation of money enacted in violation of subsection 2, 3 or 4 is void.

6. As used in this section, "biennium" means a period of two fiscal years beginning on July 1 of an odd-numbered year and ending on June 30 of the next ensuing odd-numbered year.

And be it further

RESOLVED, That Section 12 of Article 17 of the Nevada Constitution be amended to read as follows:

Sec. 12. The first regular session of the Legislature shall commence on the second Monday of December A.D. Eighteen hundred and Sixty Four, and the second regular session of the same shall commence on the first Monday of January A.D. Eighteen hundred and Sixty Six; and the third regular session of the Legislature shall be the first of the biennial sessions, and shall commence on the first Monday of January A.D. Eighteen hundred and Sixty Seven; and the regular sessions of the Legislature shall be held thereafter . ~~[biennially.]~~

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters equal to 10 percent or more of the number of voters who voted at the last preceding general election in not less than 75 percent of the counties in the State, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than ~~[January 1 of the year preceding the year in which a regular session of the Legislature is held.]~~ *1 year before the date on which the Legislature to which the petition will be transmitted commences its regular session.* After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence

over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition

shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Amendment No. 756 makes technical changes to Assembly Joint Resolution No. 6 to align it with certain provisions of Assembly Joint Resolution No. 5, as amended. It revises certain allowances and expands the number of days Legislators may receive pay.

Specifically, the amendment revises provisions of the Nevada Constitution to provide that Legislators be paid for each day of service during the 120- and 60-day sessions. It deletes provisions concerning the $60-per-legislator limit for the postage appropriation authorized in the Nevada Constitution and provisions concerning the additional allowance for certain officers of $2 per day; and it clarifies that a regular legislative session convened under the act must be adjourned prior to "midnight on the clock," linked to the actual measure of time being used and observed by the general population of Nevada during the session.

Amendment adopted.

Resolution ordered reprinted, reengrossed and to the General File.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Senate Bill No. 130 be taken from the General File and moved to the General File on the next agenda.

Motion carried.

Senator Care moved that Senate Bill No. 313 be taken from the General File and moved to the General File on the next agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 311.

Bill read third time.

The following amendment was proposed by Senator Washington:

Amendment No. 864.

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

"AN ACT relating to water; requiring the State Board of Health *under certain circumstances* 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 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). *Section 5 of this bill provides that the provisions of sections 1 and 2 of this bill become effective on January 1, 2011, only if a majority of the voters voting on the question placed on the ballot pursuant to section 4 vote affirmatively on the question.*

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. (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]~~ *serves* a population of 100,000 persons or more ~~[cease the fluoridation of]~~ *fluoridate* the water?

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 July 1, 2010, for all other purposes.~~

~~2. Section]~~ *section* 4 of this act ~~[becomes]~~ *become* effective on October 1, 2009.

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

2. Sections 1 and 2 of this act become effective on January 1, 2011, only if a majority of the voters voting on the question placed on the ballot pursuant to section 4 of this act vote affirmatively on the question.

Senator Washington moved the adoption of the amendment.

Conflict of interest declared by Senator Care.

Remarks by Senator Washington.

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

This amendment is not in opposition to fluoridation of water. It corrects an issue concerning the voters. Truckee Meadows Water Authority (TMWA) contacted me with their concerns about the cost of implementing the infrastructure to dispense fluoride in the water. With the budget cuts in the municipalities, the costs became a greater concern. This amendment changes the effective date to January 1, 2011, only after the voters have consented to allow fluoridation of their water.

The bill states that the infrastructure will be implemented, fluoridation will be dispensed into the water, and then the ballot question will be given to the voters to approve or disapprove of the action in 2010. But then, it will be too late. The infrastructure will be in, the costs will be incurred and if the people decide they do not want fluoridation, then, TMWA has to absorb the cost. This amendment is common sense. It says before we spend the money, let us have the vote and let the people make the decision as to whether they want fluoridation or not.

This is not an attempt to discount the bill. It is an attempt to put common sense in front of policy. We are asking the people to accept fluoridation in their water without them knowing it has already occurred. The same thing happened in Clark County. The people decided they did not want the fluoridation, but by then, it was too late. With rate increases, meters and the water

shortages, TMWA does not want to do this before the people can vote on it. Let the people understand what they are getting into. They are the ones who will have to pay the cost.

Motion failed.

Roll call on Senate Bill No. 311:
YEAS—11.
NAYS—Amodei, Cegavske, Hardy, Lee, McGinness, Raggio, Rhoads, Townsend, Washington—9.
NOT VOTING—Care.

Senate Bill No. 311 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 3.
Bill read third time.
Roll call on Assembly Bill No. 3:
YEAS—21.
NAYS—None.

Assembly Bill No. 3 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 10.
Bill read third time.
Roll call on Assembly Bill No. 10:
YEAS—20.
NAYS—Carlton.

Assembly Bill No. 10 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 111.
Bill read third time.
Roll call on Assembly Bill No. 111:
YEAS—21.
NAYS—None.

Assembly Bill No. 111 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 149.
Bill read third time.
Roll call on Assembly Bill No. 149:
YEAS—17.
NAYS—Cegavske, Nolan, Raggio, Washington—4.

Assembly Bill No. 149 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 152.
Bill read third time.
Roll call on Assembly Bill No. 152:
YEAS—21.
NAYS—None.

Assembly Bill No. 152 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 162.
Bill read third time.
Roll call on Assembly Bill No. 162:
YEAS—21.
NAYS—None.

Assembly Bill No. 162 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 181.
Bill read third time.
Roll call on Assembly Bill No. 181:
YEAS—20.
NAYS—None.
NOT VOTING—Care.

Assembly Bill No. 181 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 215.
Bill read third time.
Roll call on Assembly Bill No. 215:
YEAS—19.
NAYS—Carlton.
NOT VOTING—Hardy.

Assembly Bill No. 215 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 227.
Bill read third time.
Roll call on Assembly Bill No. 227:
YEAS—21.
NAYS—None.

Assembly Bill No. 227 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 254.

Bill read third time.

Remarks by Senators Cegavske and Horsford.

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

SENATOR CEGAVSKE:
Does the amendment take care of the $200,000 fiscal note?

SENATOR HORSFORD:
The budget for Consumer Affairs, as closed, covers the expense of this position. It is included in the budget.

Roll call on Assembly Bill No. 254:
YEAS—20.
NAYS—Cegavske.

Assembly Bill No. 254 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 283.

Bill read third time.

Roll call on Assembly Bill No. 283:
YEAS—21.
NAYS—None.

Assembly Bill No. 283 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 287.

Bill read third time.

The following amendment was proposed by Senator Parks:

Amendment No. 911.

"SUMMARY—Makes various changes concerning appraisals of real estate. (BDR 54-1019)"

"AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 4 of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. Sections 1, 2, 24 and 27 of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

Sections 5-22 and 26 of this bill provide for the registration and regulation of appraisal management companies.

Section 23 of this bill revises the requirements for continuing education for appraisers.

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

Section 1. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

11. Any violation of section 4 of this act.

Sec. 2. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[.]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) *Has violated section 4 of this act;*

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

~~[(u)]~~ *(v)* Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) *Has violated section 4 of this act;*

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

~~[(j)]~~ *(k)* Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 4 to 21, inclusive, of this act.

Sec. 4. *1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.*

2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:

(a) Consider additional appropriate property information;

(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or

(c) Correct errors in his appraisal.

Sec. 5. *"Appraisal firm" means a person, limited-liability company, partnership, association or corporation:*

1. Which, for compensation, prepares and communicates appraisals;

2. Whose principal is an appraiser licensed pursuant to chapter 645C of NRS; and

3. Whose principal supervises, trains and reviews work product produced by the persons who produce appraisals for the person, limited-liability company, partnership, association or corporation, including, without limitation, employees and independent contractors.

Sec. 6. *1. "Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:*

(a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

(b) Administers a network of appraisers performing real estate appraisal services as independent contractors;

(c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

(d) Otherwise serves as a third-party broker of appraisal services.

2. The term does not include:

(a) An appraisal firm;

(b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;

(c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and

(d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate

appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.

Sec. 7. *If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.*

Sec. 8. *Except as otherwise provided in section 9 of this act, it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an appraisal management company without first obtaining a registration from the Division pursuant to sections 7 to 21, inclusive, of this act.*

Sec. 9. *The provisions of sections 7 to 21, inclusive, of this act do not apply to:*

1. A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or

2. An appraisal management company that enters into not more than nine contracts annually with independent contractors in this State.

Sec. 10. *1. A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 15 of this act. An application must:*

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;

(b) State the name under which the applicant will conduct business as an appraisal management company;

(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person; and

(d) ~~*[Include a general business plan and a description of the policies and procedures that the appraisal management company and its employees and independent contractors will follow in providing real estate appraisal services pursuant to this chapter;*~~

~~*(e) Include a financial statement of the applicant; and*~~

~~*(f)]*~~ *Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the appraisal management company as a*

principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, the Division shall issue a registration to an applicant as an appraisal management company if:

(a) The application is verified by the Division and complies with the requirements of sections 7 to 21, inclusive, of this act.

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on his application.

(4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.

(5) Has not had a professional license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.

(c) The applicant certifies that he:

(1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.

(2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.

(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, "appraiser fee schedule" means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.

Sec. 11. *1. In addition to any other requirements set forth in this chapter:*

(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.

(b) An applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

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

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

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

Sec. 12. *1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

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

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

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

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

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

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

Sec. 13. *1. An applicant for registration under sections 7 to 21, inclusive, of this act shall file with the Division, in a form prescribed by regulation, an irrevocable consent appointing the Administrator his agent for service of process in a noncriminal proceeding against him, a successor or personal representative which arises under sections 7 to 21, inclusive, of this act or a regulation or order of the Commission after the consent is filed, with the same force and validity as if served personally on the person filing the consent.*

2. A person who has filed a consent complying with subsection 1 in connection with a previous application for registration need not file an additional consent.

3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by sections 7 to 21, inclusive, of this act or a regulation or order of the Commission and the person has not filed a consent to service of process under subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against him, a successor or personal representative which grows out of the conduct.

4. Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:

(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.

5. Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.

6. If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

Sec. 14. *A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:*

1. An application for renewal;

2. The fee required to renew the registration pursuant to section 15 of this act; and

3. All information required to complete the renewal.

Sec. 15. *A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:*

1. To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than $2,500 for the principal office and not more than $100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.

2. To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than $500 for the principal office and not more than $100 for each branch office.

Sec. 16. *1. If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.*

2. The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 17. *1. It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:*

(a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;

(b) Withholding or threatening to withhold future business for an independent appraiser;

(c) Terminating an agreement with an independent contractor without prior written notice;

(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;

(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;

(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;

(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be loaned to a borrower, other than a copy of the sales contract for purchase transactions;

(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;

(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:

(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or

(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;

(j) ~~[Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards;~~

~~(k)]~~ Accepting a fee for performing appraisal management services if the fee is contingent on:

(1) An appraisal report having a predetermined analysis, opinion or conclusion;

(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or

(3) The consequences resulting from an appraisal assignment; or

~~[(l)]~~ (k) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.

Sec. 18. *It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.*

Sec. 19. *1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal*

management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.

2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.

Sec. 20. *1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a registration, the Division shall deem the registration to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Division shall reinstate a registration that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 21. *1. For each violation committed by an applicant for a registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than $10,000 if the applicant:*

(a) Has knowingly made or caused to be made to the Commission any false representation of material fact;

(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act; or

(c) Has violated any provision of sections 7 to 21, inclusive, of this act, a regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order of the Commission in completing and filing his application for a registration or during the course of the investigation of the application for a registration.

2. For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than $10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered pursuant to sections 7 to 21, inclusive, of this act;

(b) Does not conduct its business in accordance with the law or has violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission;

(c) Has made a material representation in connection with any transaction governed by this chapter;

(d) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the appraisal management company knew or, by the exercise of reasonable diligence, should have known;

(e) Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act;

(f) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or

(g) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

Sec. 22. NRS 645C.010 is hereby amended to read as follows:

645C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645C.020 to 645C.130, inclusive, *and sections 5 and 6 of this act* have the meanings ascribed to them in those sections.

Sec. 23. NRS 645C.430 is hereby amended to read as follows:

645C.430 1. An appraiser must complete the requirements for continuing education prescribed by regulations adopted by the Commission as a condition to the renewal of an active certificate or license or the reinstatement of an inactive certificate or license. Until the Commission adopts those regulations, the standards for continuing education are as follows:

(a) For the renewal of an active certificate or license, not less than 30 hours of instruction within the 2 years immediately preceding the application for renewal.

(b) For the reinstatement of a certificate or license which has been on inactive status , ~~[:~~

~~(1) For not more than 2 years, or for more than 2 years including the initial period of certification or licensure, not less than 30 hours of instruction.~~

~~(2) For more than 2 years, no part of which includes the initial period of certification or licensure,~~] not less than 15 hours of instruction per year for each year that the certificate or license was on inactive status . [~~, not to exceed 60 hours of instruction.~~]

➥ *The required hours of instruction must include the most recent edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.*

2. As used in this section, an "hour of instruction" means at least 50 minutes of actual time spent receiving instruction.

Sec. 24. NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

(a) Unprofessional conduct;

(b) Professional incompetence;

(c) *Any violation of section 4 of this act;*

(d) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

[~~(d)~~] *(e)* The suspension [~~or~~] , revocation *or voluntary surrender in lieu of other discipline* of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

(a) Revoke or suspend his certificate, license or registration card.

(b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.

(c) Deny the renewal of his certificate, license or registration card.

(d) Impose a fine of not more than $10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 25. NRS 645C.470 is hereby amended to read as follows:

645C.470 A certified or licensed appraiser or registered intern is guilty of unprofessional conduct if he:

1. Willfully uses a trade name, service mark or insigne indicating membership in an organization for appraisers of which he is not a member;

2. Violates any order of the Commission, agreement with the Division, provision of this chapter or provision of any regulation adopted pursuant to this chapter;

3. Fails to disclose to any person with whom he is dealing any material fact or other information he knows, or in the exercise of reasonable care and diligence should know, concerning or relating to any real estate he appraises, including any interest he has in the real estate;

4. Knowingly communicates a false or fraudulent appraisal to any interested person or otherwise engages in any deceitful, fraudulent or dishonest conduct;

5. ~~[Enters]~~ *Prepares or provides or enters* into a contract to prepare *or provide* an appraisal ~~[by which]~~ *if* his compensation is based partially or entirely on *, or is otherwise affected by,* the amount of the appraised value of the real estate;

6. Before obtaining his license or registration card, engaged in any conduct of which the Division is not aware that would be a ground for the denial of a certificate, license or registration card; or

7. Makes a false statement of material fact on his application.

Sec. 26. NRS 645C.555 is hereby amended to read as follows:

645C.555 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate, license *, registration* or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license *, registration* or registration card or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 27. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[,]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) *Has violated section 4 of this act;*

(p) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

~~[(p)]~~ *(q)* Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 28. 1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and 26 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.

2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on July 1, 2009.

3. The provisions of sections 11 and 20 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 12 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 911 makes three technical changes. The bill prohibits a person with an interest in a real estate transaction involving appraisal from improperly influencing or attempting to influence the appraisal.

The amendment has a small, technical change that deals with the deletion of a required business plan and a financial statement. It requires if a person is to be rejected for a license, it must be based on the professional nature of the license.

Another deletion dealt with the compensation of an appraiser in a manner in which the appraisal management company knew or should have known was inconsistent. It was a vague requirement.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 314.

Bill read third time.

Roll call on Assembly Bill No. 314:

YEAS—21.

NAYS—None.

Assembly Bill No. 314 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 337.

Bill read third time.

Remarks by Senators Cegavske and Lee.

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

SENATOR CEGAVSKE:

Is the fiscal note the same at $451,616 with the amended version?

SENATOR LEE:

The fiscal note was removed because they are expecting some money from the stimulus money. Senator Reid is working on money to fund this program.

Roll call on Assembly Bill No. 337:

YEAS—21.

NAYS—None.

Assembly Bill No. 337 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 2:35 p.m.

SENATE IN SESSION

At 2:46 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bill No. 547 be placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 547.

Bill read third time.

Remarks by Senators McGinness, Horsford and Nolan.

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

SENATOR MCGINNESS:

Could I have an explanation of this bill?

SENATOR HORSFORD:

Currently, in existing law there is a fee of $250 to reinstate the registration of a motor vehicle that was suspended because the registered owner failed to have insurance on the date specified in the form for verification.

Assembly Bill No. 547 revises the manner in which the money in the account for verification of insurance may be used. It enables the agency to utilize direct transfers from the account for verification of insurance to certain divisions within the agency. Reducing Highway Fund requirements in this manner will allow the agency to remain within the existing 22-percent administration cap over the upcoming biennium.

SENATOR NOLAN:

I understand the explanation about being able to reduce the fee by $50. Where is that money going? Is it dedicated to a specific project?

SENATOR HORSFORD:

A portion of the funds, in excess of $500,000, is transferred to the State Highway Fund from the account. They provide for funding, up to 22 percent, within the limitations of the administrative fee. The remaining portion is deposited into the Highway Fund.

Roll call on Assembly Bill No. 547:

YEAS—21.

NAYS—None.

Assembly Bill No. 547 having received a constitutional majority, Mr. President declared it passed, as amended.

Senator Care moved that all necessary rules be suspended and that Assembly Bill No. 547 be immediately transmitted to the Assembly.

Motion carried unanimously.

Assembly Bill No. 349.
Bill read third time.
Roll call on Assembly Bill No. 349:
YEAS—21.
NAYS—None.

Assembly Bill No. 349 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 359.
Bill read third time.
Roll call on Assembly Bill No. 359:
YEAS—21.
NAYS—None.

Assembly Bill No. 359 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 378.
Bill read third time.
Conflict of interest declared by Senator Raggio.
Roll call on Assembly Bill No. 378:
YEAS—19.
NAYS—Carlton.
NOT VOTING—Raggio.

Assembly Bill No. 378 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 381.
Bill read third time.
Roll call on Assembly Bill No. 381:
YEAS—16.
NAYS—Amodei, Care, Cegavske, Nolan, Schneider—5.

Assembly Bill No. 381 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 426.
Bill read third time.
Roll call on Assembly Bill No. 426:
YEAS—21.
NAYS—None.

Assembly Bill No. 426 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 474.
Bill read third time.
Roll call on Assembly Bill No. 474:
YEAS—21.
NAYS—None.

Assembly Bill No. 474 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 478.
Bill read third time.
Roll call on Assembly Bill No. 478:
YEAS—21.
NAYS—None.

Assembly Bill No. 478 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 535.
Bill read third time.
Roll call on Assembly Bill No. 535:
YEAS—21.
NAYS—None.

Assembly Bill No. 535 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 548.
Bill read third time.
Roll call on Assembly Bill No. 548:
YEAS—21.
NAYS—None.

Assembly Bill No. 548 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 5.
Resolution read third time.
Roll call on Assembly Joint Resolution No. 5:
YEAS—17.
NAYS—Amodei, Care, McGinness, Washington—4.

Assembly Joint Resolution No. 5 having received a constitutional majority, Mr. President declared it passed, as amended.
Resolution ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 2:58 p.m.

SENATE IN SESSION

At 3:30 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee of the Whole, to which was referred Senate Bill No. 429, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 550, 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 22, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 880 to Assembly Bill No. 543.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved to consider Amendment No. 935 before Amendment No. 934 to Senate Bill No. 429.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 429.

Bill read second time.

The following amendment was proposed by Senator Horsford:

Amendment No. 935.

"SUMMARY—Provides additional revenue for the provision of governmental services. (BDR 32-1320)"

"AN ACT relating to state financial administration; *temporarily* increasing the state Business License Fee; *temporarily* 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 *for 4 years* to the State General Fund ~~[;]~~ *and*

thereafter to the State Highway Fund; temporarily increasing the rate of the Local School Support Tax; *providing for the creation of the Nevada Study Commission on Revenue Stabilization and an advisory committee to address the economic, fiscal and long-term needs of the State; making an appropriation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 2 of this bill increase the fee for a state business license from $100 to $200.

Existing law imposes an excise tax on certain businesses other than financial institutions at the rate of 0.63 percent of the total wages paid by the business each calendar quarter. (NRS 363B.110) Section 3 of this bill changes that rate to 0.5 percent of the amount paid that does not exceed $62,500, plus 1.17 percent of the amount paid in excess of $62,500.

Existing law sets forth depreciation schedules for determining the amount of governmental services taxes due each year for used vehicles and establishes a minimum tax of $6. (NRS 371.060) Section 4 of this bill increases the amount of governmental services taxes due annually for used vehicles by reducing the amount of depreciation allowed and increasing the minimum tax to $16. Sections 5 and 13-15 of this bill allocate the revenue from these increases in the basic governmental services tax to the State General Fund ~~[.]~~ *for the next 4 years. Sections 15.5 and 18.5 of this bill provide for the money from the increases to be deposited in the State Highway Fund thereafter.*

Under existing law, the Local School Support Tax Law imposes sales and use taxes at the rate of 2.25 percent. (NRS 374.110, 374.190) Sections 6-8 of this bill increase that rate to 2.6 percent.

Section 18.7 of this bill creates the Nevada Study Commission on Revenue Stabilization to develop state revenue strategies for the State of Nevada during the interim. In addition to other duties, the Commission is required to ensure that the State is prepared to implement the imposition of a broad-based business tax. The Commission is also required to collaborate with the Department of Taxation regarding the status of its computer hardware and software used to collect tax revenues to ensure readiness for any modifications to the revenue system. Finally, the Commission is required to submit a report of its findings and recommendations to the Governor and the Legislature by November 15, 2010. Section 18.8 of this bill creates the Technical Advisory Committee on State Revenue to assist the Commission with analyzing any modification of the State's existing revenue system and preparing a plan for implementation of any such modifications. Section 18.9 of this bill appropriates $500,000 for a consultant to assist the Commission and conduct a study of existing taxes and their allocation among the various levels of government in Nevada.

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

Section 1. NRS 360.780 is hereby amended to read as follows:

360.780 1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Department;

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business;

(c) Be accompanied by a fee of ~~[$100;]~~ *$200;* and

(d) Include any other information that the Department deems necessary.

3. The application must be signed by:

(a) The owner, if the business is owned by a natural person;

(b) A member or partner, if the business is owned by an association or partnership; or

(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.

4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this State; or

(c) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.

7. A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.

Sec. 2. NRS 360.784 is hereby amended to read as follows:

360.784 1. Except as otherwise provided in subsection 2, a person who has been issued a state business license shall submit a fee of ~~[$100]~~ *$200* to the Department on or before:

(a) The last day of the month in which the anniversary date of issuance of the state business license occurs in each year; or

(b) Such other annual date as the Department and person may mutually agree,

➥ unless the person submits a written statement to the Department, at least 10 days before that date, indicating that the person will not be conducting business in this State after that date.

2. The Department may reduce the amount of any initial fee required pursuant to paragraph (b) of subsection 1 to allow credit for the remaining portion of a year for which the fee has been paid for the state business license pursuant to paragraph (a) of subsection 1 or NRS 360.780.

3. A person who fails to submit the annual fee required pursuant to this section in a timely manner shall pay a penalty in the amount of $100 in addition to the annual fee.

Sec. 3. NRS 363B.110 is hereby amended to read as follows:

363B.110 1. There is hereby imposed an excise tax on each employer ~~[at the rate of 0.63 percent of the wages, as defined in NRS 612.190,]~~ *in the amount determined as follows:*

(a) If the sum of all the wages paid by the employer during a calendar quarter with respect to employment in connection with the business activities of the employer ~~[.]~~ *does not exceed $62,500, the amount of the tax for that calendar quarter is 0.5 percent of the sum of those wages; or*

(b) If the sum of all the wages paid by the employer during a calendar quarter with respect to employment in connection with the business activities of the employer exceeds $62,500, the amount of the tax for that calendar quarter is $312.50 plus 1.17 percent of the amount by which the sum of those wages exceeds $62,500.

2. The tax imposed by this section:

(a) Does not apply to any person or other entity or any wages this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Must not be deducted, in whole or in part, from any wages of persons in the employment of the employer.

3. Each employer shall, on or before the last day of the month immediately following each calendar quarter for which the employer is required to pay a contribution pursuant to NRS 612.535:

(a) File with the Department a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this chapter for that calendar quarter.

Sec. 4. NRS 371.060 is hereby amended to read as follows:

371.060 1. Except as otherwise provided in subsection 2, each vehicle must be depreciated by the Department for the purposes of the annual governmental services tax according to the following schedule:

Age	Percentage of Initial Value
New	100 percent
1 year	~~[85]~~ *95* percent
2 years	~~[75]~~ *85* percent
3 years	~~[65]~~ *75* percent
4 years	~~[55]~~ *65* percent
5 years	~~[45]~~ *55* percent

6 years..... ~~[35]~~ *45* percent
7 years..... ~~[25]~~ *35* percent
8 years..... ~~[15]~~ *25* percent
9 years or more ..... ~~[5]~~ *15* percent

2. Each bus, truck or truck-tractor having a declared gross weight of 10,000 pounds or more and each trailer or semitrailer having an unladen weight of 4,000 pounds or more must be depreciated by the Department for the purposes of the annual governmental services tax according to the following schedule:

Age	Percentage of Initial Value
New	100 percent
1 year	[75] 85 percent
2 years	[59] 69 percent
3 years	[47] 57 percent
4 years	[37] 47 percent
5 years	[28] 38 percent
6 years	[23] 33 percent
7 years	[20] 30 percent
8 years	[17] 27 percent
9 years	[15] 25 percent
10 years or more	[13] 23 percent

3. Notwithstanding any other provision of this section, the minimum amount of the governmental services tax:

(a) On any trailer having an unladen weight of 1,000 pounds or less is $3; and

(b) On any other vehicle is ~~[$6.]~~ *$16.*

4. For the purposes of this section, a vehicle shall be deemed a "new" vehicle if the vehicle has never been registered with the Department and has never been registered with the appropriate agency of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.

Sec. 5. NRS 371.230 is hereby amended to read as follows:

371.230 Except as otherwise provided in NRS 371.1035, 482.180 ~~[or]~~ *and* 482.181, *and section 13 of this act,* money collected by the Department for governmental services taxes and penalties pursuant to the provisions of this chapter must be deposited with the State Treasurer to the credit of the Motor Vehicle Fund.

Sec. 6. Chapter 374 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. *In addition to the amount of tax imposed pursuant to NRS 374.110, for the privilege of selling tangible personal property at retail an additional amount of tax is hereby imposed upon all retailers at the rate of 0.35 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in a county.*

Sec. 8. *1. In addition to the amount of excise tax imposed pursuant to NRS 374.190, an additional amount of excise tax is hereby imposed on the storage, use or other consumption in a county of tangible personal property purchased from any retailer for storage, use or other consumption in the county at the rate of 0.35 percent of the sales price of the property.*

2. The additional amount of tax is imposed on all property which was acquired out of State in a transaction which would have been a taxable sale if it had occurred within this State.

Sec. 8.5. NRS 374.315 is hereby amended to read as follows:

374.315 1. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract entered into before July 1, 1967.

2. There are exempted from the additional taxes imposed by amendment to this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract for construction entered into before May 1, 1981.

3. There are exempted from the additional taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract for construction of an improvement to real property, entered into before July 30, 1991, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the additional taxes.

4. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract entered into before July 2009.

Sec. 9. NRS 374.635 is hereby amended to read as follows:

374.635 1. If the Department determines that any amount, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and shall certify to the board of county commissioners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the board of county commissioners, the excess amount collected or paid must, after being credited against any amount then due from the person in accordance with section 1 of ~~[this act,]~~ *Assembly Bill No. 23 of this session,* be refunded to the person or his successors, administrators or executors.

2. Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to NRS 374.190 to 374.260, inclusive, *and section 8 of this act,* and 374.727 must be credited or refunded by the county to the purchaser, subject

to the requirements of section 1 of ~~[this act.]~~ *Assembly Bill No. 23 of this session.*

Sec. 10. NRS 374.645 is hereby amended to read as follows:

374.645 No credit or refund of any amount paid pursuant to NRS 374.190 to 374.260, inclusive, *and section 8 of this act,* and 374.727 may be allowed on the ground that the storage, use or other consumption of the property is exempted pursuant to NRS 374.350, unless the person who paid the amount reimburses his vendor for the amount of the sales tax imposed upon his vendor with respect to the sale of the property and paid by the vendor to the county.

Sec. 11. NRS 374.726 is hereby amended to read as follows:

374.726 In its administration of the use tax imposed by NRS 374.190 ~~[,]~~ *and section 8 of this act,* the Department shall not consider the storage, use or other consumption in a county of tangible personal property which:

1. Does not have significant value; and
2. Is acquired free of charge at a convention, trade show or other public event.

Sec. 12. NRS 374.727 is hereby amended to read as follows:

374.727 In administering the provisions of this chapter, the Department shall, pursuant to NRS 374.190 ~~[,]~~ *and section 8 of this act,* calculate the amount of tax imposed on the use or other consumption of meals provided by an employer to his employee based on the cost of the specific components of those meals if:

1. The meals are furnished on a regular basis on the premises of the employer for the convenience of the employer; and
2. The employer does not charge the employees a specific fixed price per meal.

Sec. 13. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. After deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180 and before carrying out the provisions of NRS 482.181 each month, the Department shall direct the State Controller to transfer to the State General Fund from the proceeds of the basic governmental services tax collected by the Department and its agents during the preceding month the amounts indicated pursuant to this section.

2. Except as otherwise provided in subsection 3, the amount required to be transferred pursuant to subsection 1 from the proceeds of the basic governmental services tax imposed on vehicles depreciated in accordance with:

(a) Subsection 1 of NRS 371.060 based upon an age of:

(1) One year, is a sum equal to 11 percent of those proceeds;

(2) Two years, is a sum equal to 12 percent of those proceeds;

(3) Three years, is a sum equal to 13 percent of those proceeds;

(4) Four years, is a sum equal to 15 percent of those proceeds;

(5) Five years, is a sum equal to 18 percent of those proceeds;

(6) Six years, is a sum equal to 22 percent of those proceeds;

(7) Seven years, is a sum equal to 29 percent of those proceeds;

(8) Eight years, is a sum equal to 40 percent of those proceeds; and

(9) Nine years or more, is a sum equal to 67 percent of those proceeds; and

(b) Subsection 2 of NRS 371.060 based upon an age of:

(1) One year, is a sum equal to 12 percent of those proceeds;

(2) Two years, is a sum equal to 14 percent of those proceeds;

(3) Three years, is a sum equal to 18 percent of those proceeds;

(4) Four years, is a sum equal to 21 percent of those proceeds;

(5) Five years, is a sum equal to 26 percent of those proceeds;

(6) Six years, is a sum equal to 30 percent of those proceeds;

(7) Seven years, is a sum equal to 33 percent of those proceeds;

(8) Eight years, is a sum equal to 37 percent of those proceeds;

(9) Nine years, is a sum equal to 40 percent of those proceeds; and

(10) Ten years or more, is a sum equal to 43 percent of those proceeds.

3. The amount required to be transferred pursuant to subsection 1 from the proceeds of the basic governmental services tax imposed on vehicles to which the minimum amount of that tax applies pursuant to paragraph (b) of subsection 3 of NRS 371.060 is a sum equal to 63 percent of those proceeds.

Sec. 14. NRS 482.180 is hereby amended to read as follows:

482.180 1. The Motor Vehicle Fund is hereby created as an agency fund. Except as otherwise provided in subsection 4 or by a specific statute, all money received or collected by the Department must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. The interest and income on the money in the Motor Vehicle Fund, after deducting any applicable charges, must be credited to the State Highway Fund.

3. Any check accepted by the Department in payment of the governmental services tax or any other fee required to be collected pursuant to this chapter must, if it is dishonored upon presentation for payment, be charged back against the Motor Vehicle Fund or the county to which the payment was credited pursuant to this section or NRS 482.181, in the proper proportion.

4. Except as otherwise provided in subsection 6, all money received or collected by the Department for the basic governmental services tax must be distributed in the manner set forth in NRS 482.181 ~~[.]~~ *and section 13 of this act.*

5. Money for the administration of the provisions of this chapter must be provided by direct legislative appropriation from the State Highway Fund or other legislative authorization, upon the presentation of budgets in the manner required by law. Out of the appropriation or authorization, the Department shall pay every item of expense.

6. The Department shall withhold 6 percent from the amount of the governmental services tax collected by the Department as a commission. From the amount of the governmental services tax collected by a county assessor, the State Controller shall credit 1 percent to the Department as a commission and remit 5 percent to the county for credit to its general fund as commission for the services of the county assessor. All money withheld by or credited to the Department pursuant to this subsection must be used only for the administration of this chapter as authorized by the Legislature pursuant to subsection 5.

7. When the requirements of this section and NRS 482.181 *and section 13 of this act* have been met, and when directed by the Department, the State Controller shall transfer monthly to the State Highway Fund any balance in the Motor Vehicle Fund.

8. If a statute requires that any money in the Motor Vehicle Fund be transferred to another fund or account, the Department shall direct the *State* Controller to transfer the money in accordance with the statute.

Sec. 15. NRS 482.181 is hereby amended to read as follows:

482.181 1. Except as otherwise provided in subsection 5, after deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180, *and the amount transferred to the State General Fund pursuant to section 13 of this act,* the Department shall certify monthly to the State Board of Examiners the amount of the basic and supplemental governmental services taxes collected for each county by the Department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental governmental services tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047.

3. The distribution of the basic governmental services tax received or collected for each county must be made to the county school district within each county before any distribution is made to a local government, special district or enterprise district. For the purpose of calculating the amount of the basic governmental services tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.

4. After making the distributions set forth in subsection 3, the remaining money received or collected for each county must be deposited in the Local

Government Tax Distribution Account created by NRS 360.660 for distribution to local governments, special districts and enterprise districts within each county pursuant to the provisions of NRS 360.680 and 360.690.

5. An amount equal to any basic governmental services tax distributed to a redevelopment agency in the Fiscal Year 1987-1988 must continue to be distributed to that agency as long as it exists but must not be increased.

6. The Department shall make distributions of the basic governmental services tax directly to county school districts.

7. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Received or collected for each county" means:

(1) For the basic governmental services tax collected on vehicles subject to the provisions of chapter 706 of NRS, the amount determined for each county based on the following percentages:

Carson City	1.07 percent	Lincoln	3.12 percent
Churchill	5.21 percent	Lyon	2.90 percent
Clark	22.54 percent	Mineral	2.40 percent
Douglas	2.52 percent	Nye	4.09 percent
Elko	13.31 percent	Pershing	7.00 percent
Esmeralda	2.52 percent	Storey	0.19 percent
Eureka	3.10 percent	Washoe	12.24 percent
Humboldt	8.25 percent	White Pine	5.66 percent
Lander	3.88 percent		

(2) For all other basic and supplemental governmental services tax received or collected by the Department, the amount attributable to each county based on the county of registration of the vehicle for which the tax was paid.

(d) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 15.5. *NRS 482.181 is hereby amended to read as follows:*

482.181 1. Except as otherwise provided in subsection 5, after deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180, and the amount transferred to the State ~~[General]~~ *Highway* Fund pursuant to section 13 of this act, the Department shall certify monthly to the State Board of Examiners the amount of the basic and supplemental governmental services taxes collected for each county by the Department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental governmental services tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047.

3. The distribution of the basic governmental services tax received or collected for each county must be made to the county school district within each county before any distribution is made to a local government, special

district or enterprise district. For the purpose of calculating the amount of the basic governmental services tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.

4. After making the distributions set forth in subsection 3, the remaining money received or collected for each county must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments, special districts and enterprise districts within each county pursuant to the provisions of NRS 360.680 and 360.690.

5. An amount equal to any basic governmental services tax distributed to a redevelopment agency in the Fiscal Year 1987-1988 must continue to be distributed to that agency as long as it exists but must not be increased.

6. The Department shall make distributions of the basic governmental services tax directly to county school districts.

7. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Received or collected for each county" means:

(1) For the basic governmental services tax collected on vehicles subject to the provisions of chapter 706 of NRS, the amount determined for each county based on the following percentages:

Carson City	1.07 percent	Lincoln	3.12 percent
Churchill	5.21 percent	Lyon	2.90 percent
Clark	22.54 percent	Mineral	2.40 percent
Douglas	2.52 percent	Nye	4.09 percent
Elko	13.31 percent	Pershing	7.00 percent
Esmeralda	2.52 percent	Storey	0.19 percent
Eureka	3.10 percent	Washoe	12.24 percent
Humboldt	8.25 percent	White Pine	5.66 percent
Lander	3.88 percent		

(2) For all other basic and supplemental governmental services tax received or collected by the Department, the amount attributable to each county based on the county of registration of the vehicle for which the tax was paid.

(d) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 16. NRS 482.260 is hereby amended to read as follows:

482.260 1. When registering a vehicle, the Department and its agents or a registered dealer shall:

(a) Collect the fees for license plates and registration as provided for in this chapter.

(b) Collect the governmental services tax on the vehicle, as agent *for the State and* for the county where the applicant intends to base the vehicle for the period of registration, unless the vehicle is deemed to have no base.

(c) Collect the applicable taxes imposed pursuant to chapters 372, 374, 377 and 377A of NRS.

(d) Issue a certificate of registration.

(e) If the registration is performed by the Department, issue the regular license plate or plates.

(f) If the registration is performed by a registered dealer, provide information to the owner regarding the manner in which the regular license plate or plates will be made available to him.

2. Upon proof of ownership satisfactory to the Director, he shall cause to be issued a certificate of title as provided in this chapter.

3. Except as otherwise provided in NRS 371.070, every vehicle being registered for the first time in Nevada must be taxed for the purposes of the governmental services tax for a 12-month period.

4. The Department shall deduct and withhold 2 percent of the taxes collected pursuant to paragraph (c) of subsection 1 and remit the remainder to the Department of Taxation.

5. A registered dealer shall forward all fees and taxes collected for the registration of vehicles to the Department.

Sec. 17. NRS 482.280 is hereby amended to read as follows:

482.280 1. The registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall mail to each holder of a certificate of registration an application for renewal of registration for the following period of registration. The applications must be mailed by the Department in sufficient time to allow all applicants to mail the applications to the Department and to receive new certificates of registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the application to any agent or office of the Department.

2. An application:

(a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;

(b) Submitted to the Department pursuant to NRS 482.294; or

(c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281,

➥ must include, if required, evidence of compliance with standards for *the* control of emissions.

3. The Department shall insert in each application mailed pursuant to subsection 1:

(a) The amount of the governmental services tax to be collected ~~[for the county]~~ pursuant to the provisions of NRS 482.260.

(b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484.444.

(c) A statement which informs the applicant that, pursuant to NRS 485.185, he is legally required to maintain insurance during the period in which the motor vehicle is registered.

4. An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new plate or plates or card of registration.

Sec. 18. NRS 706.211 is hereby amended to read as follows:

706.211 All money collected by the Department under the provisions of NRS 706.011 to 706.861, inclusive, must be deposited in the State Treasury for credit to the Motor Vehicle Fund. Except as otherwise provided in this chapter and NRS 482.180 and 482.181, *and except for any money transferred to the State General Fund pursuant to section 13 of this act,* all money collected under the provisions of NRS 706.011 to 706.861, inclusive, must be used for the construction, maintenance and repair of the public highways of this State.

Sec. 18.5. *Section 13 of this act is hereby amended to read as follows:*

Sec. 13. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. After deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180 and before carrying out the provisions of NRS 482.181 each month, the Department shall direct the State Controller to transfer to the State ~~[General]~~ *Highway* Fund from the proceeds of the basic governmental services tax collected by the Department and its agents during the preceding month the amounts indicated pursuant to this section.

2. Except as otherwise provided in subsection 3, the amount required to be transferred pursuant to subsection 1 from the proceeds of the basic governmental services tax imposed on vehicles depreciated in accordance with:

(a) Subsection 1 of NRS 371.060 based upon an age of:

(1) One year, is a sum equal to 11 percent of those proceeds;

(2) Two years, is a sum equal to 12 percent of those proceeds;

(3) Three years, is a sum equal to 13 percent of those proceeds;
(4) Four years, is a sum equal to 15 percent of those proceeds;
(5) Five years, is a sum equal to 18 percent of those proceeds;
(6) Six years, is a sum equal to 22 percent of those proceeds;
(7) Seven years, is a sum equal to 29 percent of those proceeds;
(8) Eight years, is a sum equal to 40 percent of those proceeds; and
(9) Nine years or more, is a sum equal to 67 percent of those proceeds; and

(b) Subsection 2 of NRS 371.060 based upon an age of:
(1) One year, is a sum equal to 12 percent of those proceeds;
(2) Two years, is a sum equal to 14 percent of those proceeds;
(3) Three years, is a sum equal to 18 percent of those proceeds;
(4) Four years, is a sum equal to 21 percent of those proceeds;
(5) Five years, is a sum equal to 26 percent of those proceeds;
(6) Six years, is a sum equal to 30 percent of those proceeds;
(7) Seven years, is a sum equal to 33 percent of those proceeds;
(8) Eight years, is a sum equal to 37 percent of those proceeds;
(9) Nine years, is a sum equal to 40 percent of those proceeds; and
(10) Ten years or more, is a sum equal to 43 percent of those proceeds.

3. The amount required to be transferred pursuant to subsection 1 from the proceeds of the basic governmental services tax imposed on vehicles to which the minimum amount of that tax applies pursuant to paragraph (b) of subsection 3 of NRS 371.060 is a sum equal to 63 percent of those proceeds.

Sec. 18.6. *The Legislature hereby finds and declares that:*

1. A prolonged recession has underscored the need of the State of Nevada to broaden and diversify its revenue base and reduce its dependence on sales taxes and gaming taxes to support essential state services.

2. It is critical to Nevada's economic future to provide adequate funding for K-12 public education and higher education, because significant new economic development will not occur without a qualified and educated workforce to attract and retain businesses in this State.

3. Nevada currently ranks poorly when compared to other states in many of the areas that specifically contribute to whether the residents of this State enjoy a high quality of life, including education, health and human services and public safety, such as:

(a) In K-12 public education:

(1) Nevada ranks 47th in per pupil investment, ranks 47th in pupil-to-teacher ratios and ranks 44th and 45th, respectively, in proficiency among 4th graders in math and reading.

(2) Nevada ranks 46th in the percentage of high school students who successfully complete high school.

(b) In higher education, Nevada ranks 49th in per capita state and local spending, ranks 41st in the percentage of enrolled persons 18-24 years of age and ranks 45th in the percentage of residents with at least a bachelor's degree.

(c) In public safety, Nevada ranks 2nd in the percentage of the male population in prison, ranks 5th in the percentage of females in prison and ranks 4th in the percentage of violent crime per 100,000 residents.

(d) In public health, Nevada ranks 46th in the number of physicians to the population, ranks 49th in the number of registered nurses to the population and ranks 42nd in the number of dentists to the population.

(e) Nevada ranks 3rd in the percentage of children without health insurance, ranks 1st for the rate of women who fail to receive prenatal care and ranks 50th in the number of eligible children who are covered by Medicaid, who are immunized and who receive preventative dental and medical care.

4. Although the Nevada Constitution states that "taxes may be levied upon the income or revenue of any business in whatever form it may be conducted for profit in the State," Nevada is one of only five states in the nation without a corporate income tax, and is surrounded geographically by states that impose a corporate income tax.

5. A corporate net profits tax or any alternative tax, such as a business transaction tax or any other alternative for the generation of revenue should be evaluated for viability and implemented only after determining the manner in which such a tax can be most effectively levied.

6. Diversification of the State's revenue base will provide a stable and fair allocation formula for the residents of Nevada.

Sec. 18.7. 1. The Nevada Study Commission on Revenue Stabilization is hereby created to oversee and direct the process to develop state revenue strategies for the State of Nevada.

2. The Commission consists of:

(a) Two members appointed by the Majority Leader of the Senate;

(b) Two members appointed by the Speaker of the Assembly;

(c) One member appointed by the Minority Leader of the Senate;

(d) One member appointed by the Minority Leader of the Assembly; and

(e) One member appointed by the Governor.

3. The members of the Commission shall elect a Chairman and Vice Chairman by majority vote.

4. The Commission shall ensure that this State is prepared to do the following on or before July 1, 2011, should the 2011 Nevada Legislature determine that it is in the best interests of the State of Nevada to implement the imposition of a broad-based business tax.

5. The Commission shall:

(a) Focus on a broader-based tax policy, including, without limitation, optimal tax rates and structural budgetary deficits;

(b) Consider the public's willingness to decrease sales and use taxes as other tax revenues become available;

(c) Provide business impact analysis of alternative revenue strategies;

(d) Develop a visioning process for the State of Nevada for a 5-year period, 10-year period and 20-year period; and

(e) Using current statistical information, propose strategies and recommendations to advance the State of Nevada in the nationwide rankings in key quality-of-life areas, including education, health and human services, public safety, economic diversification and creation of jobs.

6. The Commission shall collaborate with the Department of Taxation regarding the status of the computer software and hardware currently utilized to collect revenues from the taxes imposed in this State. Upon recommendation of the Commission, the Executive Director of the Department of Taxation may request an allocation from the Contingency Fund pursuant to NRS 353.266, 353.268 and 353.269 to acquire a technologically sound computer system necessary for the collection of taxes in this State.

7. The Commission shall direct the activities of the Technical Advisory Committee on State Revenues created pursuant to section 18.8 of this act and the consultant with whom a contract is entered into pursuant to section 18.9 of this act and may request such assistance as it deems necessary from those entities.

8. The Commission is subject to the provisions of chapter 241 of NRS and shall hold public hearings designed to ensure that each revenue alternative is fully analyzed, that the revenue alternatives are efficiently constructed and that the recommendations consider the unique economic and fiscal structure of the State of Nevada.

9. The Commission may accept gifts, grants and donations from any source for the purpose of carrying out the provisions of sections 18.6 to 18.9, inclusive, of this act.

10. On or before November 15, 2010, the Commission shall submit a final report that summarizes its findings and recommendations and the activities of the Technical Advisory Committee on State Revenues and the consultant to the Governor and the 76th Session of the Nevada Legislature. The report:

(a) Must include:

(1) A summary analysis illustrating the manner in which each revenue-generating alternative recommended by the Commission would impact the State, local governments, the different regions of the State and various types of businesses, including, without limitation, large and small businesses, capital-intensive and labor-intensive businesses and high-margin and low-margin businesses.

(2) A summary of any upgrades to software that have been made by the Department of Taxation, which provides in detail any additional work that is necessary to ensure that the necessary administrative infrastructure is in place to:

(I) Appropriately reallocate state and local revenues as recommended by the Commission;

(II) Impose a net profits tax;

(III) Impose a business transaction tax; and

(IV) Impose any other alternatives for generating revenue deemed appropriate by the Commission on or before July 1, 2011.

(b) May include, without limitation, recommendations for legislation and regulations, including, without limitation, legislation and regulations relating to:

(1) Any proposed realignment of collections or distribution of state or local government revenue;

(2) The imposition of a net profits tax or a business transaction tax; and

(3) Any other revenue-generating alternatives deemed appropriate by the Commission.

11. In addition to the summary of findings, the Commission may submit to the Governor and the Legislature on or before November 15, 2010:

(a) Not more than 5 bill drafts proposing methods for broadening the tax base, providing additional revenue for state programs, stabilizing the tax base and reducing long-term structural deficits of the state budget;

(b) Draft regulations for any proposed realignment of collections or distributions of state or local government revenues, or both; and

(c) Draft regulations for the implementation of a net profits tax, a business transaction tax and any other revenue generating alternatives deemed appropriate by the Commission.

Sec. 18.8. 1. The Technical Advisory Committee on State Revenues, consisting of six members, is hereby created.

2. The members of the Committee are the persons serving in the following positions or their designees:

(a) The Senate Fiscal Analyst;

(b) The Assembly Fiscal Analyst;

(c) The Chief of the Budget Division of the Department of Administration;

(d) The Director of the Department of Taxation;

(e) The Vice Chancellor for Finance of the Nevada System of Higher Education; and

(f) The Chairman of the Committee on Local Government Finance.

3. The Committee shall:

(a) At the direction of the Nevada Study Commission on Revenue Stabilization, analyze any modification of the State's existing revenue system, including, without limitation, any upgrade or replacement of equipment or software required for such a modification, and prepare a plan for implementation of the modification on or before July 1, 2011; and

(b) Provide all assistance requested by the Nevada Study Commission on Revenue Stabilization pursuant to section 18.7 of this act.

Sec. 18.9. 1. There is hereby appropriated from the State General Fund to the Legislative Fund created by NRS 218.085 the sum of $500,000 for use by the Nevada Study Commission on Revenue Stabilization created by section 18.7 of this act to contract with a qualified, independent consultant for a comprehensive study of existing taxes and their allocation among levels of government and governmental agencies in Nevada.

2. The study conducted pursuant to this section must include, without limitation:

(a) The allocation of revenue from taxation and other sources between state and local government and among local governments and the equity of that allocation;

(b) The impact on the state economy of reducing or eliminating existing taxes and imposing new or increased taxes;

(c) The methods for implementing any new taxes;

(d) The relative stability of the revenue sources of state and local government and each level of government and each governmental agency;

(e) The extent to which the revenue sources of the state and local governmental agencies increase in proportion to increased population and the corresponding increased demand for the services provided by the respective governments and governmental agencies;

(f) Any recommendations to improve the equity of the allocation of revenue and the stability of the sources of revenue for state government and the various local governmental entities; and

(g) An analysis of methods for improving the stability, equity, transparency and competitiveness of the State's revenue system.

3. The consultant shall provide a written report of the study, including the findings, conclusions and recommendations, to the Interim Finance Committee on or before January 1, 2011.

4. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 19. The amendatory provisions of:

1. Section 3 of this act ~~[do]~~ *:*

(a) Do not apply to any taxes due for any period ending on or before June 30, 2009 ~~[.]~~ *; and*

(b) Except as otherwise provided in paragraph (a) and notwithstanding the expiration of that section by limitation pursuant to section 20 of this act, apply to taxes due pursuant to NRS 363B.110 for each calendar quarter ending on or before June 30, 2011.

2. Sections 4, 5 ~~[and 13 to 18, inclusive,]~~ *, 13, 14, 15, 16, 17 and 18* of this act apply to governmental services taxes imposed for any period of registration of a vehicle that begins on or after September 1, 2009.

Sec. 20. 1. This section and ~~[section]~~ *sections 18.6 to* 19 *, inclusive,* of this act become effective upon passage and approval.

2. Sections 1, 2, 3 and 6 to 12, inclusive, of this act become effective on July 1, 2009 ~~[.]~~ *, and expire by limitation on June 30, 2011.*

3. Sections 4, 5 ~~[and 13 to 18, inclusive,]~~ *, 13, 14, 15, 16, 17 and 18* 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 this act; and

(b) On September 1, 2009, for all other purposes.

4. Sections 15.5 and 18.5 of this act become effective on July 1, 2013.

5. Section 18 of this act expires by limitation on June 30, 2013.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford and Raggio.

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

SENATOR HORSFORD:

This amendment does four things. It includes the language requested by the Committee of the Whole regarding the collection fee language that was requested by our colleague from Washoe County.

It sunsets the Government Services Tax (GST) tax after four years and diverts that to the Highway Fund as approved by the Committee of the Whole.

It adopts a two-year sunset as requested by the Minority Leader for the MBT, LSST and the Business License Fee. It includes the language for the interim committee process for the Study Commission to look at a broad-based revenue source.

I am proposing this amendment because I care more about avoiding more devastating cuts and protecting education from further harm and further denying health-care services to children and seniors than allowing the continued differences between the sides to prevent us to move this legislation.

I care more about the State of Nevada, my children's future and this State's future than scoring an internal political victory, which would only serve to prove that we were not able to override the Governor's failed budget approach. There were a number of conditions that have been placed on our revenue solution to fund the State's budget. They include the reform package, on which we have come to agreement. Those conditions included only being able to enact increases on current revenue sources. It included a sunset requirement, and it included a requirement to have a study.

While all of these conditions were laid out and we made every attempt to meet them in order to meet our State's obligations and to constitutionally fund the budget, as we are required to do as Legislators, it is more important to fund the budget than to continue to disagree in this Chamber. I ask the body's adoption of this amendment, and I will use my tenure as the leader of this Senate for as long as the body allows me to address the problems that we have in this State as it relates to our revenue structure. The provisions dealing with the Interim Study Commission will allow us to finally adopt a broad-based revenue plan so that we never find ourselves in this situation of not being able to fund education again. I urge the body's adoption of Amendment No. 935 to Senate Bill No. 429.

SENATOR RAGGIO:

I would like to have an opportunity to look at this amendment. The language in the study that is proposed in this amendment is not the one that I indicated would be acceptable. It specifically refers to certain specific new taxes that we think should not be directed by a study.

I appreciate that the Majority Leader has understood the concerns and the need to have sunsets on these taxes.

SENATOR HORSFORD:

I commit fully to continue to work with the Minority Leader on the language for the Study Commission. The language as proposed is based on the draft language whereby we merge the concepts that were proposed by the Minority Leader in Senate Bill No. 399 with the Study and specifically outlines that language. The other provisions dealing with the process, I commit to the Senate Minority Leader that following the adoption of this amendment and the approval of the bill, we will work on further clarifying language so that we mutually agree on how that process occurs. There is no intent on my behalf to single out any one particular revenue source for future revenues but to have a broad-based solution studied during the interim so that we are prepared in the upcoming session in 2011 to receive those recommendations and to take action on them as the future Legislature may decide.

All of the other language in this amendment includes the exact language on the two-year sunset as the Minority Leader proposed earlier in the Committee of the Whole. It includes the request by my colleague from Washoe County on the collection provisions, and it includes the provisions requested by my colleague from Las Vegas on the Highway Fund. Due to the late hour and the requirement to meet the deadline, I urge the body's adoption, and I commit to working with the Minority Leader on any other clarifying language in a companion bill.

SENATOR RAGGIO:

We will accept his remarks and ask for a recess to discuss this.

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

Motion carried.

Senate in recess at 3:39 p.m.

SENATE IN SESSION

At 3:47 p.m.

President Krolicki presiding.

Quorum present.

Remarks by Senators Horsford and Raggio.

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

SENATOR RAGGIO:

We appreciate the time we have been allowed to look at Amendment No. 935 to Senate Bill No. 429 offered by the Majority Leader.

We appreciate the amendment as it applies to the sunset provisions and that it also accommodates the request made by the Senator from Sparks. The problem is the sections that refer to the Study contain provisions which do not go to the issue the Majority Leader and I have discussed on several occasions. If we are going to look at true tax reform, we need to have a study that is credible, that is not pointed toward specific new taxes.

This morning, when we considered this matter in the Committee of the Whole, I withdrew the amendment that I had on the Study. I suggest the Senate can adopt your amendment because it appears to have the same sunsets we suggested and the additional amendment that has been suggested by Senator Washington, and to delete the parts about the study if we have the Majority Leader's assurance, and I give mine, that we will address these in a separate bill. If we do this, the Majority Leader and I can come to a mutual agreement on behalf of our respective interests. If we delete that from the bill, as I withdrew my amendment about a study, then, the Majority Leader's amendment meets our concerns about sunset provisions.

SENATOR HORSFORD:

It is more important to meet our obligations to the State of Nevada than it is to have differences about language in a study. I will concede to deleting those provisions in the amendment so that we can fund education in Nevada.

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

Motion carried.

Senate in recess at 3:50 p.m.

SENATE IN SESSION

At 3:56 p.m.

President Krolicki presiding.

Quorum present.

Senator Horsford moved to adopt Amendment No. 935 by striking section 18.6, section 18.7, section 18.8 and section 18.9 from the amendment.

Remarks by Senator Raggio.

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

Thank you, Mr. President. I want to extend our appreciation to the Majority Leader and to indicate that we have a mutual understanding of what the deletions do. The amendment with the deletions does the following. It sunsets at the end of the biennium the increases in the LSST, the Modified Business Tax and the Business License Fees. With respect to the change in the depreciation schedule for the GST, that will go into the General Fund for a four-year period and then will go to the Highway Fund.

The Majority Leader and I will work on a separate bill to accommodate all of our requests concerning an appropriate study involving taxes and related issues. I appreciate his courtesy and understanding of the importance of what we are doing today.

Amendment adopted.

Senator Care moved that all necessary rules be suspended, that the reprinting of Senate Bill No. 429 be dispensed with, and that the Secretary be authorized to insert Amendment No. 935, adopted by the Senate, with sections 18.6 through 18.9 of the amendment having been deleted, and the bill be declared an emergency measure under the Constitution and immediately placed on the top of the General File for third reading and final passage.

GENERAL FILE AND THIRD READING

Senate Bill No. 429.

Bill read third time.

Remarks by Senators Raggio, Hardy and Cegavske.

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

SENATOR RAGGIO:

We have the additional directive from the Legislative Counsel that we can vote on this and that she is preparing, with the deletions, the appropriate bill as amended, so that, when transmitted, it will be in its proper form.

SENATOR HARDY:

There is a need for significant reforms as to how government operates. We have worked as a body to make that happen. Last night, we reached an agreement on the reforms. It was my intent not to support a tax package until those reforms were voted on; however, in light of the cooperation and the bipartisan spirit in which those proceedings were completed, I will vote for this tax package with the understanding that the statesmanship that has been displayed will continue and that those will be adopted by this body.

SENATOR CEGAVSKE:

I still have concerns with the business tax. I am concerned that this payroll tax will harm our small businesses. Many businesses have payrolls larger than $21,000 a month. Many of these taxes will be on employers who have five employees, and I am concerned that the payroll increase will force businesses to lay off even more people in a deep recession. I do not take any of this lightly. Being a former small-business owner, I know what it is like to have fees and taxes put upon us on a regular basis. At a time when we are looking at businesses closing, we have the highest unemployment rate that we have ever had. I am concerned about what we are doing to our economy.

When I came here, this Session, I was looking for something that would help stimulate the economy and that would create jobs. I was hoping we could find ways to bring businesses here. I believe this is a job-killing tax and a business-killing tax. I will not be supporting this provision mainly because of the modified business tax. A seasonal employer who spends $250,000 in payroll over 3 months and a regular employer who spends $250,000 over 12 months are taxed at a different rate. It is not fair to that seasonal employer.

Senators Coffin, Mathews and Carlton moved the previous question.

Motion carried.

The question being on the passage of Senate Bill No. 429.

Roll call on Senate Bill No. 429:

YEAS—17.

NAYS—Amodei, Cegavske, McGinness, Washington—4.

Senate Bill No. 429 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bill No. 25 be taken from the Second Reading File and placed on the Second Reading File on the next agenda.

Remarks by Senator Care.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 550.

Bill read second time.

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

Amendment No. 893.

"SUMMARY—Requires the establishment of a commercial wedding program at ~~[the Boulder Dam Valley of Fire State Park.]~~ *all state parks.* (BDR 35-1309)"

"AN ACT relating to state parks; requiring the Administrator of the Division of State Parks of the State Department of Conservation and Natural

Resources to establish a commercial wedding program at ~~[the Boulder Dam-Valley of Fire State Park;]~~ *each state park within the jurisdiction of the Division;* requiring the Administrator to impose and collect a fee for weddings held at ~~[the Park]~~ *a park* under the program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to conduct and operate special services at state parks and impose and collect reasonable fees for the special services. (NRS 407.065) Section 1 of this bill requires the Administrator to establish a commercial wedding program at ~~[the Boulder Dam-Valley of Fire State Park]~~ *each state park within the jurisdiction of the division* and to impose and collect a fee of $150 for weddings that are held at ~~[the Park]~~ *a park* under the program. Section 2 of this bill requires that fees collected in excess of amounts authorized for expenditure must be deposited in the Account for Maintenance of State Parks.

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

Section 1. NRS 407.065 is hereby amended to read as follows:

407.065 1. The Administrator, subject to the approval of the Director:

(a) Except as otherwise provided in this paragraph, may establish, name, plan, operate, control, protect, develop and maintain state parks, monuments and recreational areas for the use of the general public. The name of an existing state park, monument or recreational area may not be changed unless the Legislature approves the change by statute.

(b) Shall protect state parks and property controlled or administered by the Division from misuse or damage and preserve the peace within those areas. The Administrator may appoint or designate certain employees of the Division to have the general authority of peace officers.

(c) May allow multiple use of state parks and real property controlled or administered by the Division for any lawful purpose, including, but not limited to, grazing, mining, development of natural resources, hunting and fishing, in accordance with such regulations as may be adopted in furtherance of the purposes of the Division.

(d) Shall impose and collect reasonable fees for entering, camping and boating in state parks and recreational areas. The Division shall issue, upon application therefor and proof of residency and age, an annual permit for entering, camping and boating in all state parks and recreational areas in this State to any person who is 65 years of age or older and has resided in this State for at least 5 years immediately preceding the date on which the application is submitted. The permit must be issued without charge, except that the Division shall charge and collect an administrative fee for the issuance of the permit in an amount sufficient to cover the costs of issuing the permit.

(e) May conduct and operate such special services as may be necessary for the comfort and convenience of the general public, and impose and collect reasonable fees for such special services.

(f) May rent or lease concessions located within the boundaries of state parks or of real property controlled or administered by the Division to public or private corporations, to groups of natural persons, or to natural persons for a valuable consideration upon such terms and conditions as the Division deems fit and proper, but no concessionaire may dominate any state park operation.

(g) *Shall establish a commercial wedding program at ~~[the Boulder Dam-Valley of Fire State Park]~~ each state park within the jurisdiction of the Division and impose and collect a fee of $150 for weddings held at ~~[the Park]~~ a park under the program. Fees collected pursuant to this paragraph must be deposited in the State General Fund to the credit of the Division.*

(h) May establish such capital projects construction funds as are necessary to account for the parks improvements program approved by the Legislature. The money in these funds must be used for the construction and improvement of those parks which are under the supervision of the Administrator.

2. The Administrator:

(a) Shall issue an annual permit to a person who pays a reasonable fee as prescribed by regulation which authorizes the holder of the permit to enter each state park and each recreational area in this State and, except as otherwise provided in subsection 3, use the facilities of the state park or recreational area without paying the entrance fee; and

(b) May issue an annual permit to a person who pays a reasonable fee as prescribed by regulation which authorizes the holder of the permit to enter a specific state park or specific recreational area in this State and, except as otherwise provided in subsection 3, use the facilities of the state park or recreational area without paying the entrance fee.

3. An annual permit issued pursuant to subsection 2 does not authorize the holder of the permit to engage in camping or boating, or to attend special events. The holder of such a permit who wishes to engage in camping or boating, or to attend special events, must pay any fee established for the respective activity.

4. Except as otherwise provided in subsection 1 of NRS 407.0762 and subsection 1 of NRS 407.0765, the fees collected pursuant to paragraphs (d), (e) , ~~[and]~~ (f) *and (g)* of subsection 1 or subsection 2 must be deposited in the State General Fund.

Sec. 2. NRS 407.0762 is hereby amended to read as follows:

407.0762 1. The Account for Maintenance of State Parks within the Division of State Parks is hereby created in the State General Fund. Except as otherwise provided in NRS 407.0765, any amount of fees collected pursuant to paragraphs (d), (e) , ~~[and]~~ (f) *and (g)* of subsection 1 or subsection 2 of NRS 407.065 in a calendar year, which is in excess of the amounts

authorized for expenditure from that revenue source in the Division's budget for the fiscal year beginning in that calendar year, must be deposited in the Account. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

2. The money in the Account does not lapse to the State General Fund at the end of any fiscal year.

3. The money deposited in the Account pursuant to subsection 1 must only be used to repair and maintain state parks, monuments and recreational areas.

4. Before the Administrator may expend money pursuant to subsection 3:

(a) For emergency repairs and projects with a cost of less than $25,000, he must first receive the approval of the Director.

(b) For projects with a cost of $25,000 or more, other than emergency repairs, he must first receive the approval of the Director and of the Interim Finance Committee.

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

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

This expands the commercial-wedding program set forth in the bill to all State Parks under the jurisdictions of the Division of State Parks.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 130.

Bill read third time.

Senator Lee moved that Assembly Bill No. 130 be taken from the General File and placed on the General File on the next agenda.

Motion carried.

Assembly Bill No. 313.

Bill read third time.

The following amendment was proposed by Senator Care:

Amendment No. 928.

"SUMMARY—Makes various changes relating to tenants of property. (BDR 10-912)"

"AN ACT relating to property; ~~[limiting the amount of fees;]~~ *providing that* a landlord may charge *a late fee* for a late or partial rent payment ~~[;]~~ *only once for each late or partial payment;* revising provisions governing unlawful detainer; extending the period for complying with a notice to quit by certain tenants in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a tenant is obligated to pay periodic rent to a landlord in exchange for use of the premises. A landlord must include, as part of the

rental agreement, a provision which sets forth the charges, if any, which may be required for late or partial payment of rent. (NRS 118A.200)

~~[This]~~ *Section 1 of this* bill ~~[limits the amount of the late fee that may be charged by a landlord for late or partial payment of rent. Section 1 of this bill provides: (1) for monthly or longer periodic terms, the late fee may not exceed 3 percent of the periodic payment for payments made 3 to 6 days late, and may not exceed an additional 4 percent of the periodic payment if payment is made 7 days or more late; (2) for certain weekly periodic terms, the late fee may not exceed 7 percent of the weekly payment for payments made late; and (3) that a late fee imposed by a landlord may only be imposed once for a late payment.]~~ *provides that if a landlord imposes a late fee for late or partial payment of rent, the landlord may only impose the late fee once for each late or partial payment.*

A tenant of real property is guilty of unlawful detainer under existing law if he: (1) fails to perform certain conditions of the lease; (2) fails to comply with a written notice directing him to perform the conditions or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. The tenant or subtenant may save the lease from forfeiture, however, by performing the conditions within 3 days after the notice is served. (NRS 40.2516) Section 3 of this bill extends from 5 to 7 days the period during which a tenant or subtenant of premises that are used as a residence may remain on the property before being guilty of unlawful detainer. Section 3 also extends the period by which such a tenant or subtenant must perform the conditions to save the lease from forfeiture from 3 to 5 days.

Existing law provides that, under certain circumstances, a landlord may obtain an order from the court directing the sheriff to remove a tenant who has failed to pay rent within 24 hours after receiving the order. (NRS 40.253) Section 4 of this bill extends that period if the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less so that the sheriff may not remove the tenant sooner than 2 days after the sheriff receives the order.

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

Section 1. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

~~*[1. A landlord shall not require, as part of a rental agreement, the tenant to pay a late fee for late or partial payment of rent in excess of the provisions of this section.*~~

~~*2. If the tenancy is from month to month and rent is due in monthly installments or if the tenancy is for a period greater than month to month as established by the rental agreement and the rent is:*~~

~~*(a) At least 3 days overdue but less than 7 days overdue, a landlord may charge a late fee not to exceed 3 percent of the periodic rent.*~~

~~*(b) Seven days or more overdue, a landlord may charge a late fee in addition to the late fee described in paragraph (a) not to exceed 4 percent of the periodic rent.*~~

~~*3. If the tenancy is from week to week and the rent is overdue, a landlord may charge a late fee not to exceed 7 percent of the weekly rent. As used in this subsection, "tenancy" does not include occupancy of any transient lodging for less than 30 consecutive calendar days.*~~

~~*4. If the rent is subsidized by the United States Department of Housing and Urban Development, the United States Department of Agriculture, a state agency, a public housing authority or a local government, any late fee charged by a landlord must be calculated in accordance with the provisions of this section on the tenant's share of the rent and the rent subsidy must not be included in the calculation.*~~

~~*5. If a late fee is imposed under this section, a]*~~

If a landlord imposes a late fee for late or partial payment of rent, the landlord may only impose the late fee once for each late or partial payment.

~~*[6. Any provision of a rental agreement prohibited by this section is void as contrary to public policy and the tenant may recover any actual damages incurred through the inclusion of the prohibited provision.]*~~

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 40.2516 is hereby amended to read as follows:

40.2516 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property or mobile home is held, other than those mentioned in NRS 40.250 to 40.252, inclusive, and NRS 40.254, and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the property, served upon him, and, if there is a subtenant in actual occupation of the premises, also upon the subtenant, remains uncomplied with for 5 days *or, when the premises are used as a residence, for 7 days* after the service thereof. Within 3 days after the service, *or within 5 days after the service when the premises are used as a residence,* the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person, interested in its continuance, may perform the condition or covenant and thereby save the lease from forfeiture; but if the covenants and conditions of the lease, violated by the lessee, cannot afterwards be performed, then no notice need be given.

Sec. 4. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing,

requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district

court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. ~~[The]~~ *If the tenant is in possession of commercial premises, the* court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. *If the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less, the court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant not sooner than 2 days after receipt of the order.* The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that ~~[there]~~ *:*

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. ~~[If the court determines that there]~~

(b) There is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief ~~[,]~~ and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

➥ The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5

of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460, and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 5. The provisions of section 1 of this act apply only to a rental agreement entered into or renewed on or after January 1, 2010, and to a rental agreement which is modified on or after January 1, 2010, to revise the terms of the agreement concerning late fees.

Sec. 6. This act becomes effective on January 1, 2010.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment deletes language that would have described how a late fee may be charged by a landlord for late or partial payment of rent. It retains the provision that a landlord may only impose a late fee once for each late payment or partial payment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Woodhouse, Wiener and Townsend as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 17.

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

Motion carried.

Senate in recess at 4:11 p.m.

SENATE IN SESSION

At 4:18 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 21, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 94, Amendments Nos. 828, 839; Senate Bill No. 411, Amendment No. 840, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 43, Amendment No. 827; Senate Bill No. 114, Amendment No. 844; Senate Bill No. 137, Amendments Nos. 706, 846; Senate Bill No. 243, Amendments Nos. 799, 889; Senate Bill No. 245, Amendment No. 902; Senate Bill No. 416, Amendment No. 878, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 35.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 803 to Assembly Bill No. 13; Senate Amendment No. 661 to Assembly Bill No. 87; Senate Amendment No. 875 to Assembly Bill No. 146; Senate Amendment No. 640 to Assembly Bill No. 186; Senate Amendment No. 628 to Assembly Bill No. 243; Senate Amendment No. 759 to Assembly Bill No. 296; Senate Amendment No. 692 to Assembly Bill No. 325; Senate Amendment No. 845 to Assembly Bill No. 335; Senate Amendment No. 708 to Assembly Bill No. 360; Senate Amendment No. 655 to Assembly Bill No. 361; Senate Amendment No. 598 to Assembly Bill No. 370; Senate Amendment No. 883 to Assembly Bill No. 458; Senate Amendment No. 728 to Assembly Bill No. 471; Senate Amendment No. 727 to Assembly Bill No. 491; Senate Amendment No. 695 to Assembly Bill No. 496; Senate Amendment No. 752 to Assembly Bill No. 500.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 17, Assembly Amendment

No. 746, and requests a conference, and appointed Assemblymen Denis, Spiegel and Stewart as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 54, Assembly Amendment No. 647, and requests a conference, and appointed Assemblymen Leslie, Smith and Hardy as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 101, Assembly Amendment No. 625, and requests a conference, and appointed Assemblymen Horne, Segerblom and McArthur as a Conference Committee to meet with a like committee of the Senate.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

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

Senate in recess at 4:19 p.m.

SENATE IN SESSION

At 4:44 p.m.

President pro Tempore Schneider presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 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. 358, 421, 426, 428, 431, 433.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 835 to Assembly Bill No. 80; Senate Amendment No. 651 to Assembly Bill No. 90; Senate Amendment No. 849 to Assembly Bill No. 225; Senate Amendment No. 801 to Assembly Bill No. 387.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 394.

The following Assembly amendment was read:

Amendment No. 879.

"SUMMARY—Makes various changes to provisions relating to of-highway vehicles. (BDR 43-501)"

"AN ACT relating to off-highway vehicles; requiring certain owners of off-highway vehicles to obtain certificates of title and registration for those vehicles; requiring the Department of Motor Vehicles to charge and collect certain fees; creating the Fund for Off-Highway Vehicles; creating the Commission on Off-Highway Vehicles; creating the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration as a special account in the Motor Vehicle Fund; eliminating the requirement that certain persons obtain certificates of operation before operating off-highway vehicles; providing for the licensing of dealers, manufacturers and lessors of off-highway vehicles and for the consignment of off-highway vehicles;

making various other changes relating to off-highway vehicles; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person from operating an off-highway vehicle on a highway in this State unless the person has obtained a certificate of operation for the off-highway vehicle and has attached the certificate of operation to the off-highway vehicle in the manner specified by the Department of Taxation. (NRS 490.080) The term "off-highway vehicle" means any motor vehicle that is designed primarily for off-highway and all-terrain use, including, without limitation, an all-terrain vehicle, an all-terrain motorcycle, a dune buggy, a snowmobile or any motor vehicle used for recreational purposes on public lands. (NRS 490.060)

Existing law requires an authorized dealer of off-highway vehicles to issue a certificate of operation for the off-highway vehicle upon the sale of the vehicle or upon request by a person who purchased the vehicle outside this State under certain circumstances. (NRS 490.070)

With limited exceptions, section 12 of this bill requires a person who acquires ownership of an off-highway vehicle on or after ~~[July 1, 2010,]~~ *the effective date of that section as provided in paragraph (b) of subsection 2 of section 63 of this act* to apply to the Department of Motor Vehicles for the titling and annual registration of the vehicle within 30 days after acquiring ownership of the vehicle. A person who acquired ownership of an off-highway vehicle before ~~[July 1, 2010,]~~ *the effective date of section 12 as provided in paragraph (b) of subsection 2 of section 63 of this act* may apply to the Department for the titling of the vehicle, but is required to apply to the Department for annual registration of the vehicle ~~[on or before June 30, 2011.]~~ *within 1 year after that date.*

Section 15 of this bill creates the Fund for Off-Highway Vehicles in the State Treasury. A portion of the money received from the fees collected pursuant to section 12 of this bill must be deposited into the Fund. All money deposited into the Fund must be used only for projects relating to off-highway vehicles as set forth in section 15.

Section 16 of this bill creates the Commission on Off-Highway Vehicles. The Commission consists of 11 members who are appointed by the Governor. Each member of the Commission serves for a term of 3 years and, if money is available from the Fund for Off-Highway Vehicles, is entitled to receive the per diem allowance and travel expenses provided to state officers and employees.

Section 17 of this bill imposes various duties upon the Commission, including, without limitation, the duty to select nonvoting advisers to the Commission and to adopt regulations for awarding grants from the Fund for Off-Highway Vehicles.

Section 59 of this bill, in part, repeals the provisions of NRS 490.030, which define the term "Department" for purposes of chapter 490 of NRS to mean the Department of Taxation. Because NRS 481.015 defines the term

"Department" for purposes of title 43 of NRS to mean the Department of Motor Vehicles, the effect of the repeal of NRS 490.030 and the amendment of NRS 481.015 set forth in section 1 of this bill is to place the authority to administer the provisions of chapter 490 of NRS under the Department of Motor Vehicles.

Sections 20-52 of this bill provide for the licensing of manufacturers, dealers and lessors of off-highway vehicles and for the consignment of off-highway vehicles.

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

Section 1. NRS 481.015 is hereby amended to read as follows:

481.015 1. Except as otherwise provided in this subsection, as used in this title, unless the context otherwise requires, "certificate of title" means the document issued by the Department that identifies the legal owner of a vehicle and contains the information required pursuant to subsection 2 of NRS 482.245. The definition set forth in this subsection does not apply to chapters 488 and 489 of NRS.

2. Except as otherwise provided in chapter 480 of NRS, NRS 484.388 to 484.3888, inclusive, 486.363 to 486.377, inclusive, and chapters 486A ~~[, 488 and 490]~~ *and 488* of NRS, as used in this title, unless the context otherwise requires:

(a) "Department" means the Department of Motor Vehicles.

(b) "Director" means the Director of the Department . ~~[of Motor Vehicles.]~~

Sec. 2. NRS 481.048 is hereby amended to read as follows:

481.048 1. The Director shall appoint, within the limits of legislative appropriations, investigators for the Division of Compliance Enforcement.

2. The duties of the investigators are to travel the State and:

(a) Act as investigators in the enforcement of the provisions of chapters 482 , ~~[and]~~ 487 *and 490* of NRS, NRS 108.265 to 108.367, inclusive, and 108.440 to 108.500, inclusive, as those sections pertain to motor vehicles, trailers, motorcycles, recreational vehicles and semitrailers, as defined in chapter 482 of NRS ~~[.]~~ *, and off-highway vehicles, as defined in NRS 490.060.*

(b) Act as advisers to any business licensed by the Department in connection with any problems arising under the provisions of chapters 108, 482, 483 , ~~[and]~~ 487 *and 490* of NRS.

(c) Advise and assist personnel of the Nevada Highway Patrol in the enforcement of traffic laws and motor vehicle registration laws as they pertain to any business licensed by the Department.

(d) Act as investigators in the enforcement of the provisions of NRS 483.700 to 483.780, inclusive, relating to the licensing of schools and instructors for training drivers.

(e) Exercise their police powers in the enforcement of the laws of this State to prevent acts of fraud or other abuses in connection with the provision of services offered to the public by the Department.

(f) Perform such other duties as may be imposed by the Director.

Sec. 3. Chapter 490 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 52, inclusive, of this act.

Sec. 4. *"Commission" means the Commission on Off-Highway Vehicles created by section 16 of this act.*

Sec. 5. *"Consignee" means any person licensed pursuant to this chapter to sell or lease off-highway vehicles or any person who holds himself out as being in the business of selling, leasing or consigning off-highway vehicles.*

Sec. 6. *"Consignment" means any transaction whereby the registered owner or lienholder of an off-highway vehicle subject to registration pursuant to this chapter agrees, entrusts or in any other manner authorizes a consignee to act as his agent to sell, exchange, negotiate or attempt to negotiate a sale or an exchange of the interest of the registered owner or lienholder in the off-highway vehicle, whether or not for compensation.*

Sec. 7. *"Consignment contract" means a written agreement between a registered owner or lienholder of an off-highway vehicle and a consignee to whom the off-highway vehicle has been entrusted by consignment for the purpose of sale that specifies the terms and conditions of the consignment and sale.*

Sec. 8. *"Fund" means the Fund for Off-Highway Vehicles created by section 15 of this act.*

Sec. 9. *For the purposes of regulation under this chapter and of imposing tort liability under NRS 41.440, and for no other purpose:*

1. "Lease" means a contract by which the lienholder or owner of an off-highway vehicle transfers to another person, for compensation, the right to use such off-highway vehicle.

2. "Long-term lessee" means a person who has leased an off-highway vehicle from another person for a fixed period of more than 31 days.

3. "Long-term lessor" means a person who has leased an off-highway vehicle to another person for a fixed period of more than 31 days.

4. "Short-term lessee" means a person who has leased an off-highway vehicle from another person for a period of 31 days or less, or by the day, or by the trip.

5. "Short-term lessor" means a person who has leased an off-highway vehicle to another person for a period of 31 days or less, or by the day, or by the trip.

Sec. 9.5. *"Manufacturer" means every person engaged in the business of manufacturing off-highway vehicles.*

Sec. 10. *1. "Off-highway vehicle dealer" means any person who:*

(a) For compensation, money or other thing of value sells, exchanges, buys, offers or displays for sale, negotiates or attempts to negotiate a sale or exchange of an interest in an off-highway vehicle;

(b) Represents himself as having the ability to sell, exchange, buy or negotiate the sale or exchange of an interest in an off-highway vehicle under this chapter or in any other state or territory of the United States;

(c) Receives or expects to receive a commission, money, brokerage fee, profit or any other thing of value from the seller or purchaser of an off-highway vehicle; or

(d) Is engaged wholly or in part in the business of selling off-highway vehicles or buying or taking in trade off-highway vehicles for the purpose of resale, selling or offering for sale or consignment to be sold or otherwise dealing in off-highway vehicles, whether or not he owns the off-highway vehicles.

2. "Off-highway vehicle dealer" does not include:

(a) An insurance company, bank, finance company, governmental agency or any other person coming into possession of an off-highway vehicle, acquiring a contractual right to an off-highway vehicle or incurring an obligation with respect to an off-highway vehicle in the performance of official duties or under the authority of any court of law, if the sale of the off-highway vehicle is to save the seller from loss or pursuant to the authority of a court of competent jurisdiction;

(b) A person, other than a long-term or short-term lessor, who is not engaged in the purchase or sale of off-highway vehicles as a business but is disposing of off-highway vehicles acquired by the owner for his use and not to avoid the provisions of this chapter, or a person who sells not more than three personally owned off-highway vehicles in any 12-month period;

(c) Persons regularly employed as salesmen by off-highway vehicle dealers, licensed under this chapter, while those persons are acting within the scope of their employment; or

(d) Persons who are incidentally engaged in the business of soliciting orders for the sale and delivery of off-highway vehicles outside the territorial limits of the United States if their sales of such vehicles produce less than 5 percent of their total gross revenue.

Sec. 11. *"Off-highway vehicle salesman" means:*

1. A person employed by an off-highway vehicle dealer, under any form of contract or arrangement to sell, exchange, buy, or offer for sale, or exchange an interest in an off-highway vehicle to any person, who receives or expects to receive a commission, fee or any other consideration from the seller or purchaser of the off-highway vehicle; or

2. A person who exercises managerial control within the business of an off-highway vehicle dealer or a long-term or short-term lessor, or who supervises salesmen employed by an off-highway vehicle dealer or a long-term or short-term lessor, whether compensated by salary or by commission, or who negotiates with or induces a customer to enter into a security agreement on behalf of an off-highway vehicle dealer or a long-term or short-term lessor of off-highway vehicles.

Sec. 12. *1. An owner of an off-highway vehicle that is acquired:*

(a) Before ~~[July 1, 2010:]~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act:

(1) May apply for, to the Department by mail or to an authorized dealer and obtain ~~[,]~~ from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, ~~[on or before June 30, 2011,]~~ within 1 year after the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, apply for, to the Department by mail or to an authorized dealer, and obtain ~~[,]~~ from the Department, the registration of the off-highway vehicle.

(b) On or after ~~[July 1, 2010,]~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, shall within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain ~~[,]~~ from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain ~~[,]~~ from the Department, the registration of the off-highway vehicle.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, he shall submit to the Department or to the authorized dealer proof prescribed by the Department that he is the owner of the off-highway vehicle.

(b) The registration of the off-highway vehicle, he shall submit:

(1) If he obtained ownership of the off-highway vehicle before ~~[July 1, 2010,]~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, proof prescribed by the Department:

(I) That he is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification or serial number for the off-highway vehicle; or

(2) If he obtained ownership of the off-highway vehicle on or after ~~[July 1, 2010:]~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act:

(I) Evidence satisfactory to the Department that the owner has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle or submit an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he is the owner of the off-highway vehicle and of the unique vehicle identification or serial number for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles;

(c) Is registered or certified in another state and is located in this State for not more than 60 days;

(d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;

(e) Is used for work conducted by or at the direction of a public or private utility; or

(f) Was manufactured before January 1, 1976.

4. The registration of an off-highway vehicle expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee and a late fee of $25. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

(a) Set forth by the Department by regulation; and

(b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who ~~[has registered the off-highway vehicle in a state that has similar requirements for the registration of off-highway vehicles.]~~ is not a resident of this State.

Sec. 13. *Each registration of an off-highway vehicle must:*

1. Be in the form of a sticker or decal, as prescribed by the Department. ~~[and approved by the Commission.]~~

2. Be approximately the size of a license plate for a motorcycle, as set forth by the Department.

3. Include a unique vehicle identification or serial number for the off-highway vehicle.

4. Be displayed on the off-highway vehicle in the manner set forth by the Commission.

Sec. 14. *1. The Department shall determine the fee for issuing a certificate of title for an off-highway vehicle, but such fee must not exceed the*

fee imposed for issuing a certificate of title pursuant to NRS 482.429. Money received from the payment of the fees described in this subsection must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

2. The Commission shall determine the fee for the annual registration of an off-highway vehicle, but such fee must not be less than $20 or more than $30. Money received from the payment of the fees described in this subsection must be distributed as follows:

(a) During the period ~~[from July 1, 2010, through June 30, 2011:]~~ beginning on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and ending 1 year after that date:

(1) Eighty-five percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 15 percent must be deposited into the Fund.

(b) On or after ~~[July 1, 2011:]~~ the expiration of the period specified in paragraph (a):

(1) Fifteen percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 85 percent must be deposited into the Fund.

Sec. 15. *1. The Fund for Off-Highway Vehicles is hereby created in the State Treasury as a revolving fund. The Commission shall administer the Fund. Any money remaining in the Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.*

2. During the period ~~[from July 1, 2010, through June 30, 2011,]~~ beginning on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and ending 1 year after that date, money in the Fund may only be used by the Commission for the reasonable administrative costs of the Commission and to inform the public of the requirements of this chapter.

3. On or after ~~[June 30, 2011,]~~ the expiration of the period specified in subsection 2, money in the Fund may only be used by the Commission as follows:

(a) Not more than 5 percent of the money that is in the Fund as of January 1 of each year may be used for the reasonable administrative costs of the Fund.

(b) Except as otherwise provided in subsection 4, 20 percent of any money in the Fund as of January 1 of each year that is not used pursuant to

paragraph (a) must be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor, and any remaining portion of that money may be used as follows:

(1) Sixty percent of the money may be used for projects relating to:

(I) Studies or planning for trails and facilities for use by owners and operators of off-highway vehicles. Money received pursuant to this sub-subparagraph may be used to prepare environmental assessments and environmental impact studies that are required pursuant to 42 U.S.C. §§ 4321 et seq.

(II) The mapping and signing of those trails and facilities.

(III) The acquisition of land for those trails and facilities.

(IV) The enhancement and maintenance of those trails and facilities.

(V) The construction of those trails and facilities.

(VI) The restoration of areas that have been damaged by the use of off-highway vehicles.

(2) ~~[Twenty percent of the money may be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor.~~

~~(3)]~~ Fifteen percent of the money may be used for safety training and education relating to off-highway vehicles.

4. If money is used for the projects described in paragraph (b) of subsection 3, not more than 30 percent of such money may be allocated to any one category of projects described in subparagraph (1) of that paragraph.

Sec. 16. *1. The Commission on Off-Highway Vehicles is hereby created.*

2. The Commission consists of 11 members as follows:

(a) One member who is an authorized dealer, appointed by the Governor;

(b) One member who is a sportsman, appointed by the Governor from a list of persons submitted to him by the Director of the Department of Wildlife;

(c) One member who is a rancher, appointed by the Governor from a list of persons submitted to him by the Director of the State Department of Agriculture;

(d) One member who is a representative of the Nevada Association of Counties, appointed by the Governor from a list of persons submitted to him by the Executive Director of the Association;

(e) One member who is a representative of law enforcement, appointed by the Governor from a list of persons submitted to him by the Nevada Sheriffs' and Chiefs' Association;

(f) One member, appointed by the Governor from a list of persons submitted to him by the Director of the State Department of Conservation and Natural Resources, who:

(1) Possesses a degree in soil science, rangeland ecosystems science or a related field;

(2) Has at least 5 years of experience working in one of the fields described in subparagraph (1); and

(3) Is knowledgeable about the ecosystems of the Great Basin Region of central Nevada or the Mojave Desert; and

(g) One member, appointed by the Governor, who is a representative of an organization that represents persons who use off-highway vehicles to access areas to participate in recreational activities that do not primarily involve off-highway vehicles;

(h) Four members, appointed by the Governor, who reside in the State of Nevada and have participated in recreational activities for off-highway vehicles for at least 5 years using the type of off-highway vehicle owned or operated by the persons they will represent, as follows:

(1) One member who represents persons who own or operate all-terrain vehicles;

(2) One member who represents persons who own or operate all-terrain motorcycles;

(3) One member who represents persons who own or operate snowmobiles; and

(4) One member who represents persons who own or operate, and participate in the racing of, off-highway ~~[vehicles.]~~ motorcycles.

3. The Governor shall not appoint to the Commission any member described in paragraph (h) of subsection 2 unless the member has been recommended to the Governor by an off-highway vehicle organization. As used in this subsection, "off-highway vehicle organization" means a profit or nonprofit corporation, association or organization formed pursuant to the laws of this State and which promotes off-highway vehicle recreation or racing.

4. After the initial terms, each member of the Commission serves for a term of 3 years. A vacancy on the Commission must be filled in the same manner as the original appointment.

5. Except as otherwise provided in this subsection, a member of the Commission may not serve more than two consecutive terms on the Commission. A member who has served two consecutive terms on the Commission may be reappointed if the Governor does not receive any applications for that member's seat or if the Governor determines that no qualified applicants are available to fill that member's seat.

6. The Governor shall ensure that, insofar as practicable, the members whom he appoints reflect the geographical diversity of this State.

7. Each member of the Commission:

(a) Is entitled to receive, if money is available for that purpose from the fees collected pursuant to section 14 of this act, the per diem allowance and travel expenses provided for state officers and employees generally.

(b) Shall swear or affirm that he will work to create and promote responsible off-highway vehicle recreation in the State. The Governor may remove a member from the Commission if the member violates the oath described in this paragraph.

8. The Commission may employ an Executive Secretary, who must not be a member of the Commission, to assist in its daily operations and in administering the Fund.

9. The Commission may adopt regulations for the operation of the Commission. Upon request by the Commission, the nonvoting advisers solicited by the Commission pursuant to section 17 of this act may provide assistance to the Commission in adopting those regulations.

Sec. 17. *1. The Commission shall:*

(a) Elect a Chairman, Vice Chairman, Secretary and Treasurer from among its members.

(b) Meet at the call of the Chairman.

(c) Meet at least four times each year.

(d) Solicit nine nonvoting advisers to the Commission to serve for terms of 2 years as follows:

(1) One adviser from the Bureau of Land Management.

(2) One adviser from the United States Forest Service.

(3) One adviser who is:

(I) From the Natural Resources Conservation Service of the United States Department of Agriculture; or

(II) A teacher, instructor or professor at an institution of the Nevada System of Higher Education and who provides instruction in environmental science or a related field.

(4) One adviser from the State Department of Conservation and Natural Resources.

(5) One adviser from the Department of Wildlife.

(6) One adviser from the Department of Motor Vehicles.

(7) One adviser from the Commission on Tourism.

(8) One adviser from the Nevada Indian Commission.

(9) One adviser from the United States Fish and Wildlife Service.

2. The Commission may award a grant of money from the Fund. Any such grant must comply with the requirements set forth in section 15 of this act. The Commission shall:

(a) Adopt regulations setting forth who may apply for a grant of money from the Fund and the manner in which such a person may submit the application to the Commission. The regulations adopted pursuant to this paragraph must include, without limitation, requirements that:

(1) Any person requesting a grant provide proof satisfactory to the Commission that the appropriate federal, state or local governmental agency has been consulted regarding the nature of the project to be funded by the grant and regarding the area affected by the project;

(2) The application for the grant address all applicable laws and regulations, including, without limitation, those concerning:

(I) Threatened and endangered species in the area affected by the project;

(II) Ecological, cultural and archaeological sites in the area affected by the project; and

(III) Existing land use authorizations and prohibitions, land use plans, special designations and local ordinances for the area affected by the project; and

(3) Any compliance information provided by an appropriate federal, state or local governmental agency, and any information or advice provided by any agency, group or individual be submitted with the application for the grant.

(b) Adopt regulations for awarding grants from the Fund.

(c) Adopt regulations for determining the acceptable performance of work on a project for which a grant is awarded.

(d) Approve the completion of, and payment of money for, work performed on a project for which a grant is awarded, if the Commission determines the work is acceptable.

(e) Monitor the accounting activities of the Fund.

3. The nonvoting advisers solicited by the Commission pursuant to paragraph (d) of subsection 1 shall assist the Commission in carrying out the duties set forth in this section and shall review for completeness and for compliance with the requirements of paragraph (a) of subsection 2 all applications for grants.

4. For each regular session of the Legislature, the Commission shall prepare a comprehensive report, including, without limitation, a summary of any grants that the Commission awarded and of the accounting activities of the Fund, and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 18. (Deleted by amendment.)

Sec. 19. *1. The Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration is hereby created as a special account in the Motor Vehicle Fund.*

2. The Department shall use the money in the Account to pay the expenses of administering the provisions of ~~[sections 12 and 14 of this act.]~~ this chapter relating to the titling and registration of off-highway vehicles.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of the 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.

Sec. 19.5. 1. The Revolving Account for the Assistance of the Department is hereby created as a special account in the Motor Vehicle Fund.

2. All money received by the Department from the Federal Government or any other source to assist the Department in carrying out the provisions of this chapter relating to the titling and registration of off-highway vehicles must be deposited into the Account.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of the 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.

Sec. 20. *The Department, all officers thereof and all peace officers in this State shall enforce the provisions of this chapter.*

Sec. 21. *The Director may adopt and enforce such administrative regulations as are necessary to carry out the provisions of this chapter.*

Sec. 22. *1. Before taking an off-highway vehicle on consignment, an off-highway vehicle dealer or lessor shall prepare a written consignment contract.*

2. A consignment contract must include, without limitation:

(a) The names of the consignor and consignee;

(b) The date on which the consignment contract was entered into;

(c) A complete description of the off-highway vehicle subject to the consignment contract, including the unique vehicle identification or serial number, and the year, make and model of the off-highway vehicle;

(d) The term of the consignment contract;

(e) The name of each person or business entity holding any security interest in the off-highway vehicle to be consigned;

(f) The minimum sales price for the off-highway vehicle and the disposition of the proceeds therefrom, as agreed upon by the consignor and consignee; and

(g) The signatures of the consignor and consignee acknowledging all the terms and conditions set forth in the consignment contract.

Sec. 23. *1. A consignee of an off-highway vehicle shall, upon entering into a consignment contract or other form of agreement to sell an off-highway vehicle owned by another person:*

(a) Open and maintain a separate trust account in a federally insured bank or savings and loan association that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the off-highway vehicle. A consignee of an off-highway vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the off-highway vehicle subject to the consignment contract or agreement; or

(2) Use any money in the trust account to pay his operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the off-highway vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

IMPORTANT NOTICE TO OFF-HIGHWAY VEHICLE OWNERS

State law (section 23 of this act) requires that the operator of this business file a Uniform Commercial Code 1 (UCC1) form with the Office of the Secretary of State on your behalf to protect your interest in your off-highway vehicle. The form is required to protect your off-highway vehicle from forfeiture in the event that the operator of this business fails to meet his financial obligations to a third party holding a security interest in his inventory. The form must be filed by the operator of this business before he may take possession of your off-highway vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada
Uniform Commercial Code Division
(775) 684-5708

I understand and acknowledge the above disclosure.

……..……..
Consignee Signature *Date*

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the off-highway vehicle, a financial statement of the type described in subsection 5 of NRS 104.9317 and shall file the financial statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the off-highway vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the off-highway vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the off-highway vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in an off-highway vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the off-highway vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the off-highway vehicle is made.

4. The provisions of this section do not apply to:

(a) An executor;

(b) An administrator;

(c) A sheriff; or

(d) Any other person who sells off-highway vehicles pursuant to the powers or duties granted to or imposed on him by specific statute.

5. Notwithstanding any provision of the Nevada Revised Statutes to the contrary, an off-highway vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer unless the operation of the off-highway vehicle is authorized by the express written consent of the consignor.

6. A consignee shall maintain a written log for each off-highway vehicle for which he has entered into a consignment contract. The written log must include:

(a) The name and address, or place of residence, of the consignor;

(b) A description of the off-highway vehicle consigned, including the year, make, model and unique vehicle identification or serial number of the off-highway vehicle;

(c) The date on which the consignment contract is entered into;

(d) The period that the off-highway vehicle is to be consigned;

(e) The minimum agreed upon sales price for the off-highway vehicle;

(f) The approximate amount of money due any lienholder or other person known to have an interest in the off-highway vehicle;

(g) If the off-highway vehicle is sold, the date on which the off-highway vehicle is sold;

(h) The date that the money due the consignor and the lienholder was paid;

(i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and

(j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.

7. A person who:

(a) Appropriates, diverts or otherwise converts to his own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise

subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 24. *1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of sections 24 to 47, inclusive, of this act shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

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

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

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of sections 24 to 47, inclusive, of this act if the applicant is a natural person who:

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

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

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

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 25. *1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to sections 24 to 47,*

inclusive, of this act, the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate an occupational license issued pursuant to the provisions of this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 26. *1. Except as otherwise provided in subsection 2, a person shall not engage in the activities of a new off-highway vehicle dealer, used off-highway vehicle dealer, long-term or short-term lessor or manufacturer in this State until he has been issued:*

(a) A license or permit to act as a new off-highway vehicle dealer, used off-highway vehicle dealer, long-term or short-term lessor or manufacturer, or a similar license or permit, by every city within whose corporate limits he maintains an established place of business and by every county in which he maintains an established place of business outside the corporate limits of a city; and

(b) A license by the Department. The Department shall not issue a license to the person until he has been issued all licenses and permits required by paragraph (a).

2. A person licensed as an off-highway vehicle dealer pursuant to this chapter shall not engage in the activities of a new off-highway vehicle dealer until he has provided the Department with satisfactory proof that he is authorized by a manufacturer to display and offer for sale the off-highway vehicles produced or distributed by that manufacturer.

3. A license for an off-highway vehicle dealer or manufacturer issued pursuant to this chapter does not permit a person to engage in the business of buying, selling or leasing or manufacturing motor vehicles or trailers governed pursuant to the laws and regulations established in chapter 482 of NRS.

4. The Department shall investigate any applicant for a license as an off-highway vehicle dealer, long-term or short-term lessor or manufacturer and shall complete an investigation report on a form provided by the Department.

5. A person who violates subsection 1 or 2 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

Sec. 27. *1. Except as otherwise provided in subsections 2 and 3, every off-highway vehicle dealer, long-term or short-term lessor and manufacturer who is licensed by the Department to do business in this State shall maintain an established place of business in this State which:*

(a) Includes a permanent enclosed building, owned in fee or leased, with sufficient space to display one or more off-highway vehicles which the off-highway vehicle dealer, lessor or manufacturer is licensed to sell, lease or manufacture; and

(b) Is principally used by the licensee to conduct his business.

2. Every new and used off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall maintain an established place of business in this State which has:

(a) In addition to sufficient customer and employee parking, adequate usable space to display one or more off-highway vehicles offered for sale or lease from his established place of business;

(b) Except for businesses licensed pursuant to this chapter or chapter 482 of NRS and owned by a single principal or group of principals, physical boundaries which are clearly marked that physically separate the licensee's established place of business from any other adjacent place of business; and

(c) A permanent enclosed building large enough to accommodate an office but not less than 100 square feet of usable floor space to accommodate his business office and provide a safe place to keep and store the books and other records of his business.

3. A short-term off-highway vehicle lessor shall:

(a) Designate his principal place of business as his established place of business and each other location where he conducts business as a branch that is operated pursuant to the license for the principal place of business.

(b) Notify the Department of each branch at which he conducts business by filing, on forms provided by the Department, such information pertaining to each branch as required by the Department.

Sec. 28. *1. An application for a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer must be filed upon forms supplied by the Department and include the social security number of the applicant. The forms must designate the persons whose names are required to appear thereon. The applicant must furnish:*

(a) Such proof as the Department may deem necessary that the applicant is an off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(b) A fee of $125.

(c) A fee for the processing of fingerprints. The Department shall establish by regulation the fee for processing fingerprints. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records

of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

(d) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(e) If the applicant is a natural person, the statement required pursuant to section 24 of this act.

(f) A certificate of insurance for liability.

2. Upon receipt of the application and when satisfied that the applicant is entitled thereto, the Department shall issue to the applicant a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer containing the name of the licensee and the address of his established place of business or the address of the main office of a manufacturer without an established place of business in this State.

3. Licenses issued pursuant to this section expire on December 31 of each year. Before December 31 of each year, a licensee must furnish the Department with an application for renewal of his license accompanied by an annual fee of $50. If the applicant is a natural person, the application for renewal also must be accompanied by the statement required pursuant to section 24 of this act. The additional fee for the processing of fingerprints, established by regulation pursuant to paragraph (c) of subsection 1, must be submitted for each applicant whose name does not appear on the original application for the license. The renewal application must be provided by the Department and contain information required by the Department.

Sec. 29. *The Director shall, before renewing any occupational license issued pursuant to this chapter, consider:*

1. The number and types of complaints received against an off-highway vehicle dealer, long-term or short-term lessor or manufacturer by the Department; and

2. Any administrative fines imposed upon the off-highway vehicle dealer, lessor or manufacturer by the Department pursuant to this chapter,

➥ *and may require the dealer, lessor or manufacturer to provide a good and sufficient bond in the amount set forth in subsection 1 of section 40 of this act for each category of off-highway vehicle sold at each place of business and in each county in which the dealer, lessor or manufacturer is licensed to do business.*

Sec. 30. *Evidence of unfitness of an applicant for or a licensee of an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for the purposes of denial or revocation of a license may consist of, but is not limited to:*

1. Failure to discharge a lienholder on an off-highway vehicle within 30 days after it is traded to his dealership.

2. Being the former holder of or being a partner, officer, director, owner or manager involved in management decisions of an off-highway vehicle

dealership which held a license issued pursuant to section 28 of this act or of an occupational license issued pursuant to chapter 482 of NRS which was revoked for cause and never reissued or was suspended upon terms which were never fulfilled.

3. Defrauding or attempting to defraud the State or a political subdivision of any taxes or fees in connection with the sale or transfer of an off-highway vehicle.

4. Forging the signature of the registered or legal owner of an off-highway vehicle on a certificate of title.

5. Purchasing, selling, otherwise disposing of or having in his possession any off-highway vehicle which he knows, or a reasonable person should know, is stolen or otherwise illegally appropriated.

6. Willfully failing to deliver to a purchaser or his lienholder a certificate of title to an off-highway vehicle he has sold.

7. Refusing to allow an agent of the Department to inspect, during normal business hours, all books, records and files which are required to be maintained within the State.

8. Any fraud which includes, but is not limited to:

(a) Misrepresentation in any manner, whether intentional or grossly negligent, of a material fact.

(b) An intentional failure to disclose a material fact.

9. Willful failure to comply with any regulation adopted by the Department.

10. Knowingly submitting or causing to be submitted any false, forged or otherwise fraudulent document to the Department to obtain a lien, title or certificate of ownership or any duplicate thereof for an off-highway vehicle.

11. Knowingly causing or allowing a false, forged or otherwise fraudulent document to be maintained as a record of his business.

12. Violating any provisions of this chapter which involve the sale or transfer of an interest in an off-highway vehicle.

Sec. 31. *An off-highway vehicle dealer, long-term or short-term lessor or manufacturer licensed under the provisions of this chapter shall post his license, and all licenses issued to persons in his employ who are licensed as off-highway vehicle salesmen pursuant to the provisions of this chapter, in a conspicuous place clearly visible to the general public at the location described in the license.*

Sec. 32. *Except as otherwise provided in subsection 2 of section 10 of this act, the following activities are prima facie evidence that a person is engaged in the activities of an off-highway vehicle dealer:*

1. A person displays for sale, sells or offers for sale any off-highway vehicle which he does not personally own;

2. A person demonstrates, or allows the demonstration or operation of, any off-highway vehicle for the purpose of sale or future sale or as an inducement to purchase the vehicle; or

3. A person engages in an activity specified by subsection 1 of section 10 of this act or any other act regarding an off-highway vehicle which would lead a reasonable person to believe that he may purchase that off-highway vehicle or a similar off-highway vehicle from the person.

Sec. 33. *1. An off-highway vehicle dealer shall inform the Department of the location of each place at which he conducts any business and the name under which he does business at each location.*

2. If an off-highway vehicle dealer does business at more than one location, he shall designate one location in each county in which he does business as his principal place of business for that county and one name as the principal name of his business. He shall designate all of his other business locations not otherwise designated as a principal place of business pursuant to this subsection as branches.

3. An off-highway vehicle dealer who maintains a principal place of business and one or more businesses designated as branches may operate those branches under the authority of the license issued by the Department to the principal place of business under the following conditions:

(a) The principal and branch locations are owned and operated by the same principal or group of principals listed on the records of the Department for the principal place of business;

(b) The sales activities conducted at a branch location are the same as those authorized by the Department at the principal place of business;

(c) The principal place of business and each branch location are located within the same county;

(d) The principal place of business and each branch location maintain the appropriate city or county license;

(e) The closest boundary of a branch location is not more than 500 feet from the principal place of business;

(f) The business sign displayed at each branch location meets the requirements of section 39 of this act and is essentially the same in name, style and design as that of the principal place of business;

(g) Sales transactions originating at a branch location are culminated, and the records of the transaction maintained, at the principal place of business; and

(h) The off-highway vehicle dealer provides all documentation which the Department deems necessary to ensure that each business location is operated in accordance with the provisions of this chapter and all other applicable laws and regulations established for the operation of an off-highway vehicle sales business in this State.

4. If an off-highway vehicle dealer changes the name or location of any of his established places of business, he shall not conduct business as an off-highway vehicle dealer under the new name or at the new location until he has been issued a license for the new name or location from the Department.

Sec. 34. *1. An off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall keep his books and records for all locations at which he does business within a county at his principal place of business in that county.*

2. Each off-highway vehicle dealer, lessor and manufacturer shall:

(a) Permit any authorized agent of the Director or the State of Nevada to inspect and copy the books and records during usual business hours; or

(b) Not later than 3 business days after receiving a request from such a person for the production of the books and records or any other information, provide the requested books, records and other information to the person at the location specified in the request.

3. An off-highway vehicle dealer, lessor and manufacturer shall retain his books and records for 3 years after he ceases to be licensed as an off-highway vehicle dealer, lessor or manufacturer.

Sec. 35. *1. If an off-highway vehicle dealer or long-term lessor has one or more branches, he shall procure from the Department a license for each branch, in addition to the license issued for his principal place of business.*

2. The Department shall specify on each license it issues:

(a) The name of the licensee;

(b) The location for which the license is issued; and

(c) The name under which the licensee does business at that location.

3. Each off-highway vehicle dealer and lessor shall post each license issued to him by the Department in a conspicuous place clearly visible to the general public at the location described in the license.

4. The Department shall, by regulation, provide for the issuance of a temporary license for a licensed off-highway vehicle dealer to conduct business at a temporary location. Any such regulations must include the imposition of a reasonable fee for the issuance of the temporary license.

Sec. 36. *Except as otherwise provided in section 41 of this act, the Department or any other agency of this State shall not require that an off-highway vehicle dealer have his signature acknowledged before a notary public or any other person authorized to take acknowledgments in this State on any document the off-highway vehicle dealer is required to file with the Department or agency.*

Sec. 37. *Each off-highway vehicle dealer who advertises that the Spanish language is spoken at his place of business or who conducts business by communicating in Spanish with a purchaser or prospective purchaser regarding the potential purchase of an off-highway vehicle shall, upon the request of a purchaser or prospective purchaser of an off-highway vehicle with whom the off-highway vehicle dealer or his agent is communicating or has communicated in Spanish as a part of the preliminary discussions and negotiations regarding the purchase or potential purchase of the off-highway vehicle, allow the purchaser or prospective purchaser to view the version of the forms for the application for credit and contracts to*

be used in the sale of off-highway vehicles which have been translated into Spanish pursuant to subsection 3 of NRS 97.299.

Sec. 38. *If a licensed off-highway vehicle dealer takes an off-highway vehicle in trade on the purchase of another off-highway vehicle and there is an outstanding security interest, the licensed off-highway vehicle dealer shall satisfy the outstanding security interest within 30 days after the off-highway vehicle is taken in trade on the purchase of the other off-highway vehicle.*

Sec. 39. *1. Except as otherwise provided in subsection 2, at each of his established places of business, each off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall permanently affix a sign containing the name of his business in lettering of sufficient size to be clearly legible from the center of the nearest street or roadway, except that the lettering must be at least 8 inches high and formed by lines that are at least 1 inch wide.*

2. Upon approval of the Director, and in accordance with all other city and county ordinances, an off-highway vehicle dealer or a long-term or short-term lessor may be exempted from the requirements of subsection 1 if:

(a) His established place of business or branch location is located within the confines of another business;

(b) The other place of business is the primary business at that location; and

(c) The primary business is not licensed pursuant to any provision of this chapter.

Sec. 40. *1. Before any off-highway vehicle dealer, long-term or short-term lessor or manufacturer is issued a license pursuant to this chapter, the Department shall require that the applicant procure and file with the Department a good and sufficient bond with a corporate surety thereon, duly licensed to do business within the State of Nevada, approved as to form by the Attorney General and conditioned that the applicant or any employee who acts on his behalf within the scope of his employment shall conduct his business as an off-highway vehicle dealer, lessor or manufacturer without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation and without violation of the provisions of this chapter. The bond must be in the amount of $50,000.*

2. The Department may, pursuant to a written agreement with any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has been licensed to do business in this State for at least 5 years, allow a reduction in the amount of the bond of the off-highway vehicle dealer, lessor or manufacturer if his business has been conducted in a manner satisfactory to the Department for the preceding 5 years. No bond may be reduced to less than 50 percent of the bond required pursuant to subsection 1.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

4. The undertaking on the bond includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter by the representative of any licensed representative or salesman of any licensed off-highway vehicle dealer, long-term or short-term lessor or manufacturer who acts for the off-highway vehicle dealer, lessor or manufacturer on his behalf and within the scope of the employment of the representative or the salesman.

5. The bond must provide that any person injured by the action of the off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesman in violation of any provision of this chapter may apply to the Director, for good cause shown, for compensation from the bond. The surety issuing the bond shall appoint the Secretary of State as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

6. If a person is injured by the actions of an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesman, the person may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman, the judgment is binding on the surety.

(2) A judgment other than on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the off-highway vehicle dealer, lessor, manufacturer, representative or salesman. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the injured person in the amount agreed upon in the settlement.

7. Any judgment entered by a court against an off-highway vehicle dealer, long-term or short term lessor, manufacturer, representative or off-highway vehicle salesman may be executed through a writ of attachment, garnishment, execution or other legal process, or the person in whose favor

the judgment was entered may apply to the Director for compensation from the bond of the off-highway vehicle dealer, lessor, manufacturer, representative or salesman.

8. The Department shall not issue a license pursuant to subsection 1 to an off-highway vehicle dealer, long-term or short term lessor or manufacturer who does not have and maintain an established place of business in this State.

Sec. 41. *1. In lieu of a bond, an applicant may deposit with the Department, under terms prescribed by the Department:*

(a) A like amount of lawful money of the United States or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by NRS 482.345 and indicate that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the amount accrues to the account of the applicant.

2. A deposit made pursuant to subsection 1 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) A court order requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person or persons under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

3. When a deposit is made pursuant to subsection 1, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding court judgment for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1 of section 40 of this act;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

4. A deposit made pursuant to subsection 1 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

5. Any money received by the Department pursuant to subsection 1 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 42. *1. The bond required by section 40 of this act must cover the licensee's principal place of business and all branches operated by him, including, without limitation, any place of business operated in this State by the licensee that is located outside the county of the licensee's principal office or any place of business operated by the licensee under a different name.*

2. In addition to the coverage provided by the licensee's bond pursuant to subsection 1, the licensee shall procure a separate bond for:

(a) Each place of business operated in this State by the licensee that is located outside the county of the licensee's principal office; and

(b) Each place of business operated by the licensee under a different name.

Sec. 43. *1. A new off-highway vehicle dealer's license must not be furnished to any off-highway vehicle dealer in new off-highway vehicles unless the off-highway vehicle dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that he is an authorized franchised off-highway vehicle dealer for the make or makes of off-highway vehicles concerned. New off-highway vehicle dealers are authorized to sell at retail only those new off-highway vehicles for which they are certified as franchised off-highway vehicle dealers by the manufacturer.*

2. In addition to selling used off-highway vehicles, a used off-highway vehicle dealer may:

(a) Sell at wholesale a new off-highway vehicle taken in trade or acquired as a result of a sales contract to a new off-highway vehicle dealer who is licensed and authorized to sell that make of vehicle;

(b) Sell at wholesale a new off-highway vehicle through a wholesale vehicle auction if the wholesale vehicle auctioneer:

(1) Does not take an ownership interest in the off-highway vehicle; and

(2) Auctions the off-highway vehicle to an off-highway vehicle dealer who is licensed and authorized to sell that make of off-highway vehicle; or

(c) Sell a new off-highway vehicle on consignment from a person not licensed as an off-highway vehicle dealer or long-term or short-term lessor.

Sec. 44. *1. No off-highway vehicle dealer, long-term or short-term lessor or manufacturer may employ "bait and switch" advertising or otherwise intentionally publish, display or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold, leased, manufactured, handled or furnished to the public.*

2. The Director shall adopt such regulations as may be necessary for making the administration of this section effective.

3. As used in this section, "bait and switch" advertising consists of an offer to sell or lease goods or services which the seller or lessor in truth may not intend or desire to sell or lease, accompanied by one or more of the following practices:

(a) Refusal to show the goods advertised.

(b) Disparagement in any material respect of the advertised goods or services or the terms of sale or lease.

(c) Requiring other sales or leases or other undisclosed conditions to be met before selling or leasing the advertised goods or services.

(d) Refusal to take orders for the goods or services advertised for delivery within a reasonable time.

(e) Showing or demonstrating defective goods which are unusable or impractical for the purposes set forth in the advertisement.

(f) Accepting a deposit for the goods or services and subsequently switching the purchase order to higher-priced goods or services.

Sec. 45. *1. The Department may deny the issuance of, suspend or revoke a license to engage in the activities of an off-highway vehicle dealer, long-term or short-term lessor or manufacturer in new or used off-highway vehicles in this State upon any of the following grounds:*

(a) Failure of the applicant to have an established place of business in this State.

(b) Conviction of a felony in the State of Nevada or any other state, territory or nation.

(c) Material misstatement in the application.

(d) Evidence of unfitness of the applicant or licensee.

(e) Willful failure to comply with any of the provisions of the laws of the State of Nevada or the directives of the Director. For the purpose of this paragraph, failure to comply with the directives of the Director advising the licensee of his noncompliance with any provision of the laws of this State or regulations of the Department, within 10 days after receipt of the directive, is prima facie evidence of willful failure to comply with the directive.

(f) Failure or refusal to furnish and keep in force any bond.

(g) Failure on the part of the licensee to maintain a fixed place of business in this State.

(h) Failure or refusal by a licensee to pay or otherwise discharge any final judgment against the licensee rendered and entered against him, arising out of the misrepresentation of any off-highway vehicle or out of any fraud committed in connection with the sale of any off-highway vehicle.

(i) Failure of the licensee to maintain any other license or bond required by any political subdivision of this State.

(j) Allowing an unlicensed off-highway vehicle salesman to sell or lease any off-highway vehicle or to act in the capacity of an off-highway vehicle salesman as defined in this chapter.

(k) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 3.

(l) Engaging in a deceptive trade practice relating to the purchase and sale or lease of an off-highway vehicle.

2. The Director may deny the issuance of a license to an applicant or revoke a license already issued if the Department is satisfied that the applicant or licensee is not entitled thereto.

3. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the activities of an off-highway vehicle dealer, long-term or short term lessor or manufacturer, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to the authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to the authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to sections 24 to 47, inclusive, of this act or to determine the suitability of an applicant or a licensee for such licensure.

4. The Department may adopt regulations establishing additional criteria that may be used to deny, suspend, revoke or refuse to renew a license issued pursuant to this chapter.

Sec. 46. *1. Except as otherwise provided in subsection 5, an applicant or licensee may, within 30 days after receipt of the notice of denial, suspension or revocation, petition the Director in writing for a hearing.*

2. Subject to the further requirements of subsection 3, the Director shall make written findings of fact and conclusions and grant or finally deny the application or revoke the license within 15 days after the hearing unless by interim order he extends the time to 30 days after the hearing. If the license has been temporarily suspended, the suspension expires not later than 15 days after the hearing.

3. If the Director finds that the action is necessary in the public interest, upon notice to the licensee, he may temporarily suspend or refuse to renew the license issued to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for a period not to exceed 30 days. A hearing must be held, and a final decision rendered, within 30 days after notice of the temporary suspension.

4. The Director may issue subpoenas for the attendance of witnesses and the production of evidence.

5. The provisions of this section do not apply to an applicant for a temporary permit to engage in the activity of an off-highway vehicle salesman.

Sec. 47. *1. A person shall not engage in the activity of a salesman of off-highway vehicles or act in the capacity of an off-highway vehicle salesman as defined in this chapter in the State of Nevada without first having received a license or temporary permit from the Department.*

2. A license to act as an off-highway vehicle salesman must be issued in accordance with the provisions for the licensing of vehicle salesmen as defined in chapter 482 of NRS.

3. A person who has received a license issued pursuant to the provisions of chapter 482 of NRS must be licensed to act as a salesman of vehicles defined in chapter 482 of NRS and as an off-highway vehicle salesman as defined in this chapter.

4. All requirements, restrictions and penalties applicable to a vehicle salesman licensed pursuant to the provisions of chapter 482 of NRS apply without exception to off-highway vehicle salesmen.

Sec. 48. *1. It is a gross misdemeanor for any person knowingly to falsify:*

(a) An off-highway vehicle dealer's report of sale, as described in section 50 of this act; or

(b) An application or document to obtain any license, permit, certificate of title or registration issued under the provisions of this chapter.

2. ~~[It]~~ Except as otherwise provided in subsection 3, it is a misdemeanor for any person to violate any of the provisions of this chapter unless ~~[such]~~ the violation is by this section or other provision of this chapter or other law of this State declared to be a gross misdemeanor or a felony.

3. Any person who violates a provision of this chapter relating to the registration or operation of an off-highway vehicle is guilty of a misdemeanor and shall be punished by a fine not to exceed $100.

Sec. 49. *1. The Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of sections 22 to 52, inclusive, of this ~~[chapter]~~ act or any rule, regulation or order adopted or issued pursuant thereto. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

3. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any rule, regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 50. *1. When a new or used off-highway vehicle is sold or leased in this State for the first time, the seller or lessor of the off-highway vehicle shall, unless a new off-highway vehicle is sold to an off-highway vehicle*

dealer who is licensed to sell the make of off-highway vehicle being sold, complete and execute an off-highway vehicle dealer's report of sale.

2. The form, content and disposition of the off-highway vehicle dealer's report of sale must be prescribed by regulation adopted by the Department.

Sec. 51. *When a used off-highway vehicle is sold in this State by a person who is not an off-highway vehicle dealer, the seller or buyer or both of them shall, within 10 days after the sale:*

1. Submit to the Department:

(a) If a certificate of title has been issued in this State, the certificate properly endorsed.

(b) If a certificate of title or other document of title has been issued by a public authority of another state, territory or country:

(1) The certificate or document properly endorsed; and

(2) A statement containing, if not included in the endorsed certificate or document, the description of the off-highway vehicle, including the names and addresses of the buyer and seller and the name and address of any person who takes or retains a purchase money security interest. Any such statement must be signed and acknowledged by the seller and the buyer.

(c) If no document of title has been issued by any public authority, a statement containing all the information and signed and acknowledged in the manner required by subparagraph (2) of paragraph (b).

2. Remit to the Department any fee for the processing of an endorsed certificate of title or statement submitted to the Department pursuant to this section.

Sec. 52. *Any person is guilty of a gross misdemeanor who knowingly:*

1. Makes or causes to be made any false entry on any certificate of origin or certificate of title for an off-highway vehicle;

2. Furnishes or causes to be furnished false information to the Department concerning any security interest; or

3. Fails to submit or causes to not be submitted the original of the off-highway vehicle dealer's or long-term lessor's report of sale or lease, together with the certificate of title or certificate of ownership issued for a new or used off-highway vehicle to the Department within the time prescribed by regulation adopted by the Department.

Sec. 53. NRS 490.010 is hereby amended to read as follows:

490.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 490.020 to 490.060, inclusive, *and sections 4 to 11, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 54. NRS 490.020 is hereby amended to read as follows:

490.020 "Authorized dealer" means a dealer authorized by the Department to ~~[issue]~~ *receive and submit to the Department applications for the issuance of* certificates of ~~[operation]~~ *title* for *, and registrations of,* off-highway vehicles pursuant to NRS 490.070.

Sec. 55. NRS 490.060 is hereby amended to read as follows:

490.060 1. "Off-highway vehicle" means a motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

(a) An all-terrain vehicle;

(b) An all-terrain motorcycle;

(c) A dune buggy;

(d) A snowmobile; and

(e) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

(a) A motor vehicle designed primarily for use in water;

(b) A motor vehicle that is registered by the Department *;* ~~[of Motor Vehicles; or]~~

(c) A low-speed vehicle as defined in NRS 484.527 ~~[.]~~ *; or*

(d) Special mobile equipment, as defined in NRS 482.123.

Sec. 56. NRS 490.070 is hereby amended to read as follows:

490.070 1. Upon the request of ~~[a dealer of]~~ *an* off-highway ~~[vehicles,]~~ *vehicle dealer,* the Department may authorize the *off-highway vehicle* dealer to ~~[issue]~~ *receive and submit to the Department applications for the:*

(a) Issuance of certificates of ~~[operation]~~ *title and registration* for off-highway vehicles ~~[pursuant to subsection 3.~~

~~2. Each certificate of operation for an off-highway vehicle issued by an authorized dealer must be in the form of a sticker approved by the Department.~~

~~3.]~~ *; and*

(b) Renewal of registration for off-highway vehicles.

2. An authorized dealer shall:

(a) ~~[Upon the sale of an off-highway vehicle, issue to the purchaser of the off-highway vehicle a certificate of operation for the off-highway vehicle;~~

~~(b) Upon request, issue a certificate of operation to a person who purchased the off-highway vehicle before January 1, 2006;~~

~~(c) Issue a certificate of operation to the owner of an off-highway vehicle that was purchased outside this State on or after January 1, 2006, if the owner:~~

~~(1) Requests the certificate of operation; and~~

~~(2) Pays or submits evidence satisfactory to the authorized dealer that he has paid all taxes applicable in this State to the purchase of the off-highway vehicle or submits an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle;]~~ *Except as otherwise provided in paragraph (b) and subsection 4, submit to the State Treasurer for allocation to the Department or to the Fund all fees collected by the authorized dealer from each applicant and properly account for those fees each month;*

(b) Submit to the State Treasurer for deposit into the Fund all fees charged and collected and required to be deposited in the Fund pursuant to section 14 of this act;

~~[(d)]~~ *(c)* Comply with the regulations adopted pursuant to subsection ~~[6;]~~ *5;* and

~~[(e)]~~ *(d)* Bear any cost of equipment which is required to ~~[issue certificates of operation,]~~ *receive and submit to the Department the applications described in subsection 1,* including any computer software or hardware.

~~[4. An]~~

3. Except as otherwise provided in subsection 4, an authorized dealer is not entitled to receive compensation ~~[from the Department]~~ for the performance of ~~[those services.]~~ *any services pursuant to this section.*

~~[5.]~~ *4.* An authorized dealer ~~[shall not charge or]~~ *may charge and* collect a fee *of not more than $2* for ~~[issuing]~~ *each application for* a certificate of ~~[operation.~~

~~6.]~~ *title or registration received by the authorized dealer pursuant to this section. An authorized dealer may retain any fee collected by the authorized dealer pursuant to this subsection.*

5. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of *:*

(1) Forms for applying for the issuance of certificates of ~~[operation]~~ *title for, or registration of, off-highway vehicles;*

(2) Certificates of title and registration by the Department to ~~[authorized dealers; and]~~ *each applicant whose application is approved by the Department; and*

(3) Renewal notices for registrations before the date of expiration of the registrations;

(b) *The renewal of registrations by mail or Internet;*

(c) The collection of a fee of not less than $20 or more than $30 for the renewal of a registration of an off-highway vehicle;

(d) The submission by mail or electronic transmission to the Department of an application for:

(1) The issuance of a certificate of title for, or registration of, an off-highway vehicle; or

(2) The renewal of registration of an off-highway vehicle;

(e) The replacement of a lost, damaged or destroyed certificate of title or registration certificate, sticker or decal; and

(f) The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.

Sec. 57. NRS 490.100 is hereby amended to read as follows:

490.100 1. Except as otherwise provided in subsection 2, a city or county may designate any portion of a highway within the city or county as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles. If a city or county designates any portion a state highway as permissible for the operation of off-highway vehicles

pursuant to this subsection, the city or county must obtain approval for the designation from the Department . ~~[of Transportation.]~~ The Department ~~[of Transportation]~~ shall issue a timely decision concerning the request for approval and must not unreasonably deny the request.

2. The highway designated for operation of off-highway vehicles pursuant to subsection 1 may not consist of any portion of an interstate highway.

3. If a city or county designates a highway for the operation of off-highway vehicles, the city or county may adopt an ordinance requiring a person who is less than 16 years of age and who is operating the off-highway vehicle on a designated highway to be under the direct visual supervision of a person who is at least 18 years of age.

4. A person operating an off-highway vehicle on a highway designated for operation of off-highway vehicles pursuant to subsection 1 may not operate the off-highway vehicle on the highway for any purpose other than to travel to or from the private or public area as described in subsection 1.

Sec. 58. NRS 490.130 is hereby amended to read as follows:

490.130 The operator of an off-highway vehicle that is being driven on a highway in this State in accordance with NRS 490.090 to 490.130, inclusive, shall:

1. Comply with all traffic laws of this State;

2. Ensure that the ~~[certificate of operation for]~~ *registration of* the off-highway vehicle is attached to the vehicle in accordance with ~~[NRS 490.080;]~~ *section 13 of this act;* and

3. Wear a helmet.

Sec. 58.3. NRS 41.440 is hereby amended to read as follows:

41.440 Any liability imposed upon a wife, husband, son, daughter, father, mother, brother, sister or other immediate member of a family arising out of his or her driving and operating a motor vehicle ~~[upon a highway]~~ with the permission, express or implied, of such owner is hereby imposed upon the owner of the motor vehicle, and such owner shall be jointly and severally liable with his or her wife, husband, son, daughter, father, mother, brother, sister or other immediate member of a family for any damages proximately resulting from such negligence or willful misconduct, and such negligent or willful misconduct shall be imputed to the owner of the motor vehicle for all purposes of civil damages.

Sec. 58.7. NRS 104A.2104 is hereby amended to read as follows:

104A.2104 1. A lease, although subject to this Article, is also subject to any applicable:

(a) Certificate of title statute of this State, including any applicable provision of chapters 482, 488 ~~[and]~~ 489 *and 490* of NRS;

(b) Certificate of title statute of another jurisdiction (NRS 104A.2105); or

(c) Consumer protection statute of this State, including any applicable provision of NRS 97.297, 97.299, 97.301 and 100.095 to 100.175, inclusive,

and a final decision of a court of this State concerning the protection of consumers rendered before January 1, 1990.

2. In case of conflict between this Article, other than NRS 104A.2105, subsection 3 of NRS 104A.2304 and subsection 3 of NRS 104A.2305, and a statute or decision referred to in subsection 1, the statute or decision controls.

3. Failure to comply with an applicable law has only the effect specified therein.

Sec. 59. NRS 490.030 and 490.080 are hereby repealed.

Sec. 60. An owner of an off-highway vehicle who obtained a certificate of operation for an off-highway vehicle before ~~[July 1, 2010,]~~ *the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act* shall ~~[on or before June 30, 2011,]~~ *, within 1 year after that date,* register the off-highway vehicle pursuant to the provisions of section 12 of this act.

Sec. 61. 1. Any off-highway vehicle dealer who is an authorized dealer pursuant to NRS 490.070 before ~~[July 1, 2010,]~~ *the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act* shall be deemed to be an authorized dealer by the Department of Motor Vehicles pursuant to ~~[that section,]~~ *NRS 490.070,* as amended by section 56 of this act.

2. The regulations adopted by the Department of Taxation pursuant to NRS 490.070 become the regulations of the Department of Motor Vehicles on ~~[July 1, 2010,]~~ *the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act* and, to the extent that the regulations are consistent with the amendatory provisions of this act, remain in effect until amended or repealed by the Department of Motor Vehicles.

Sec. 62. 1. As soon as practicable after ~~[the effective date of this section,]~~ *passage and approval of this act,* the Governor shall solicit applications for the appointment of the members of the Commission on Off-Highway Vehicles created by section 16 of this act.

2. As soon as practicable after July 1, ~~[2009,]~~ *2010,* the Governor shall, after considering each application received pursuant to subsection 1, appoint the members of the Commission on Off-Highway Vehicles who are qualified pursuant to section 16 of this act to initial terms as follows:

(a) Four members to terms that expire on January 1, ~~[2011.]~~ *2012.*

(b) Four members to terms that expire on January 1, ~~[2012.]~~ *2013.*

(c) Three members to terms that expire on January 1, ~~[2013.]~~ *2014.*

Sec. 62.5. As soon as practicable after determining that at least $500,000 is available in the Revolving Account for the Assistance of the Department created by section 19.5 of this act to enable the Department of Motor Vehicles to administer the provisions of chapter 490 of NRS, as amended by this act, relating to the registration of off-highway vehicles, the Interim Finance Committee shall notify the Department of that fact. Upon receipt of the notice, the Department shall ensure that notice of the

determination of the Interim Finance Committee is made available to the members of the public.

Sec. 63. 1. This ~~[act becomes]~~ *section and sections 19.5 and 62.5 of this act become effective upon passage and approval.*

2. Sections 1 to 19, inclusive, and 20 to 62, inclusive, of this act become effective:

(a) Upon passage and approval for purposes of:

(1) The appointment by the Governor of the members of the Commission on Off-Highway Vehicles created by section 16 of this act; and

(2) The adoption of regulations to carry out the provisions of this act.

(b) On July 1, ~~[2010,]~~ *2011, or 1 year after the date the Interim Finance Committee issues a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act, whichever occurs first,* for all other purposes.

~~[2. Sections]~~

3. This section and sections 1 to 62.5, inclusive, of this act expire by limitation on July 1, 2011, if the Interim Finance Committee has not issued a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act before that date.

4. Except as otherwise provided in subsection 3, sections 24 and 25 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTIONS

490.030 "Department" defined. "Department" means the Department of Taxation.

490.080 Prerequisite to operation of vehicle on highway; attachment to vehicle; replacement; transferability; exceptions.

1. Except as otherwise provided in subsection 4, a person shall not operate an off-highway vehicle on a highway pursuant to NRS 490.090 to 490.130, inclusive, unless he has:

(a) Obtained a certificate of operation for the off-highway vehicle; and

(b) Attached the certificate to the off-highway vehicle in the manner specified by the Department.

2. If a certificate of operation for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may request a new certificate of operation from an authorized dealer.

3. If the owner of an off-highway vehicle sells or otherwise transfers ownership of the off-highway vehicle, the certificate of operation remains valid.

4. A certificate of operation is not required for an off-highway vehicle which:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles;

(c) Is registered or certified in another state and is located in this State for not more than 90 days;

(d) Is used solely for husbandry on private land or on public land that is leased to the owner or operator of the off-highway vehicle; or

(e) Is used for work conducted by or at the direction of a public or private utility.

Senator Horsford moved that the Senate concur in the Assembly amendment to Senate Bill No. 394.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

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

Senate in recess at 4:46 p.m.

SENATE IN SESSION

At 4:55 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 2009

To the Honorable the Senate:

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the Conference Committee concerning Senate Bill No. 109.

DIANE M. KEETCH

Assistant Chief Clerk of the Assembly

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

Senate in recess at 4:58 p.m.

SENATE IN SESSION

At 5:06 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended and that Assembly Bill No. 149 be immediately transmitted to the Assembly.

Motion carried unanimously.

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

Senate in recess at 5:07 p.m.

SENATE IN SESSION

At 5:47 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 304, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Schneider moved to withdraw Amendment No. 797 to Assembly Bill No. 25 and place the bill immediately on General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 25.

Bill read third time.

Roll call on Assembly Bill No. 25:

YEAS—20.

NAYS—Raggio.

Assembly Bill No. 25 having received a two-thirds majority, Mr. President declared it passed.

Senator Schneider moved that all necessary rules be suspended and that Assembly Bill No. 25 be immediately transmitted to the Assembly.

Motion carried unanimously.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 114.

The following Assembly amendment was read:

Amendment No. 844.

"SUMMARY—Makes various changes relating to systems for obtaining and using solar energy and other renewable energy resources. (BDR 58-380)"

"AN ACT relating to energy; requiring the Director of the Office of Energy to make certain determinations relating to systems for obtaining solar energy; prohibiting certain restrictions on the use of systems for obtaining solar *energy or wind* energy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents which prohibit or unreasonably restrict an owner of property from using a system for obtaining solar ~~[or wind]~~ energy on his property. (NRS 111.239, 278.0208) Sections 2 and 3 of this bill include within the prohibition any such covenant, restriction or condition which has the effect of prohibiting or unreasonably restricting the property owner from using ~~[such]~~ a *solar energy* system. Sections 2 and 3 also describe an unreasonable restriction on the use of a system for obtaining solar energy as including: (1) the placing of a restriction or requirement that decreases the efficiency or performance of a system for obtaining solar energy by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy; and (2) the prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.

Section 1 of this bill requires the Director, if requested to make a determination concerning the efficiency or performance of a system for obtaining solar energy pursuant to section 2 or 3, to make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, section 1 authorizes the Director to request that information from the person requesting the determination and requires the Director to make the determination within 15 days after receiving the additional information.

Sections 1.5 and 2.5 of this bill set forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents, and against local ordinances, regulations or plans, which prohibit or unreasonably restrict an owner of property from using a system for obtaining wind energy on his property. Sections 1.5 and 2.5 describe an unreasonable restriction on the use of a system for obtaining wind energy as the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance. Sections 1.5 and 2.5 do not prohibit reasonable restrictions: (1) imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or (2) relating to the height, noise or safety of a system for obtaining wind energy.

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

Section 1. 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.

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. 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. Solicit and serve as the point of contact for grants and other money from the Federal Government and other sources to promote:

(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.

8. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Task Force, the Consumer's Advocate and the Public Utilities Commission of Nevada and 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. *If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, he may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.*

10. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 1.5. Chapter 111 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the height, noise or safety of a system for obtaining wind energy.

3. For the purposes of this section, "unreasonably restricts the owner of the property from using a system for obtaining wind energy" includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.

Sec. 2. NRS 111.239 is hereby amended to read as follows:

111.239 1. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer ~~[,]~~ *or* sale *of,* or any other interest in *,* real property ~~[that]~~ *and which* prohibits or unreasonably restricts *or has the effect of prohibiting or unreasonably restricting* the owner of the property from using a system for obtaining solar ~~[or wind]~~ energy on his property is void and unenforceable.

2. For the purposes of this section, ~~["unreasonably restricts the use of a system for obtaining solar or wind energy" means]~~ *the following shall be deemed to be unreasonable restrictions:*

(a) ~~*[The placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.*~~

~~*(b)]*~~ *The* placing *of* a restriction or requirement on the use of ~~[such]~~ a system *for obtaining solar energy* which ~~[significantly]~~ decreases the efficiency or performance of the system *by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy,* and *which* does not allow for the use of an

alternative system at a *substantially* comparable cost and with *substantially* comparable efficiency and performance.

~~[(c)]~~ *(b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.*

Sec. 2.5. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2:

(a) A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining wind energy on his property.

(b) Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the height, noise or safety of a system for obtaining wind energy.

3. For the purposes of this section, "unreasonably restricts the owner of the property from using a system for obtaining wind energy" includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.

Sec. 3. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts *or has the effect of prohibiting or unreasonably restricting* the owner of real property from using a system for obtaining solar ~~[or wind]~~ energy on his property.

2. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer ~~[,]~~ *or* sale *of,* or any other interest in , real property ~~[that]~~ *and which* prohibits or unreasonably restricts *or has the effect of prohibiting or unreasonably restricting* the owner of the property from using a system for obtaining solar ~~[or wind]~~ energy on his property is void and unenforceable.

3. For the purposes of this section, ~~["unreasonably restricting the use of a system for obtaining solar or wind energy" means]~~ *the following shall be deemed to be unreasonable restrictions:*

(a) ~~[The placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

~~(b)]~~ The placing *of* a restriction or requirement on the use of ~~[such]~~ a system *for obtaining solar energy* which ~~[significantly]~~ decreases the efficiency or performance of the system *by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy,* and *which* does not allow for the use of an alternative system at a *substantially* comparable cost and with *substantially* comparable efficiency and performance.

~~[(c)]~~ (b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.

Sec. 4. This act becomes effective upon passage and approval.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 114.

Remarks by Senator Schneider.

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

This further clarifies that the counties may deny the application for windmills. It is already in the bill, but we further defined it for Clark County.

Motion carried by a constitutional majority.

Bill ordered enrolled.

SECOND READING AND AMENDMENT

Assembly Bill No. 304.

Bill read second time.

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

Amendment No. 907.

"SUMMARY—Makes various changes relating to the preservation *and improvement* of existing neighborhoods. (BDR 22-641)"

"AN ACT relating to ~~[land use regulation;]~~ *development;* making various changes pertaining to the preservation of historic neighborhoods; *revising certain provisions concerning the Southern Nevada Enterprise Community; requiring the City of Las Vegas and the Nevada Department of Transportation to cooperate to reopen a certain street;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain plans and zoning regulations must incorporate the consideration of certain policies, including the protection of existing neighborhoods and communities. (NRS 268.190, 278.02528, 278.0274, 278.150, 278.160, 278.170, 278.250) ~~[This]~~ *Sections 1.4 and 2-16 of this* bill ~~[requires]~~ *require* certain local governmental entities to address the preservation of historic neighborhoods in those plans and regulations.

Existing law designates certain areas in the urban core of the Las Vegas Valley as the Southern Nevada Enterprise Community. Existing law also establishes the Southern Nevada Enterprise Community Advisory Board and requires the Board to prepare, develop and carry out a project of infrastructure improvement in the Community. (Chapter 407, Statutes of Nevada 2007, pp. 1781-86) Section 25 of this bill changes the name of the Board, and section 26 of this bill revises the membership. Section 27 of this bill expands the duties of the Board to include identifying, seeking funding for and carrying out additional projects in the Community. Section 1.7 of this bill creates the Southern Nevada Enterprise Community Projects Fund and authorizes the Board to administer the Fund.

Section 32 of this bill requires the City of Las Vegas and the Nevada Department of Transportation to cooperate in funding and bringing about the approval, design and construction of the project to reopen F Street in Las Vegas.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 1.4 and 1.7 of this act.*

Sec. 1.4. "Historic neighborhood" means a subdivided or developed area:

1. Which consists of 10 or more residential dwelling units;

2. Where at least two-thirds of the residential dwelling units are 40 or more years of age; and

3. Which has been identified by the governing body of the city or county within which the area is located as having a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity. Distinguishing characteristics of a historic neighborhood may include, without limitation:

(a) Significance to the cultural, social, political or economic history of the area in which it is located;

(b) Association with a significant person, group or event in local, state or national history;

(c) Representation of an established and familiar visual feature of an area because of its location, design, architecture or singular physical appearance; or

(d) Meeting the criteria for eligibility for listing on the State or National Register of Historic Places.

Sec. 1.7. 1. The Southern Nevada Enterprise Community Projects Fund is hereby created in the State Treasury. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

2. The Southern Nevada Enterprise Community Board shall administer the Fund and may accept gifts, grants and other money for deposit in the Fund.

3. The money in the Fund may only be used to fund projects in the Southern Nevada Enterprise Community and is hereby authorized for expenditure as a continuing appropriation for this purpose.

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section ~~[1]~~ 1.4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, *and section ~~[1]~~ 1.4 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.02528 is hereby amended to read as follows:

278.02528 1. The regional planning coalition shall develop a comprehensive regional policy plan for the balanced economic, social, physical, environmental and fiscal development and orderly management of the growth of the region for a period of at least 20 years. The comprehensive regional policy plan must contain recommendations of policy to carry out each part of the plan.

2. In developing the plan, the coalition:

(a) May consult with other entities that are interested or involved in regional planning within the county.

(b) Shall ensure that the comprehensive regional policy plan includes goals, policies, maps and other documents relating to:

(1) Conservation, including, without limitation, policies relating to the use and protection of natural resources.

(2) Population, including, without limitation, standardized projections for population growth in the region.

(3) Land use and development, including, without limitation, a map of land use plans that have been adopted by local governmental entities within the region, and that the plan addresses, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation.

(4) Transportation.

(5) The efficient provision of public facilities and services, including, without limitation, roads, water and sewer service, police and fire protection, mass transit, libraries and parks.

(6) Air quality.

(7) Strategies to promote and encourage:

(I) The interspersion of new housing and businesses in established neighborhoods; ~~[and]~~

(II) *The preservation of historic neighborhoods; and*

(III) Development in areas in which public services are available.

3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the adoption or amendment is by resolution of the regional planning coalition:

(a) Carried by the affirmative votes of not less than two-thirds of its total membership; and

(b) Ratified by the board of county commissioners of the county and the city council of each city that jointly established the regional planning coalition pursuant to NRS 278.02514.

Sec. 4. NRS 278.02556 is hereby amended to read as follows:

278.02556 Except as otherwise provided in this section, a governing body, regional agency, state agency or public utility that is located in whole or in part within the region shall not adopt a master plan, facilities plan or other similar plan, or an amendment thereto, after March 1, 2001, unless the regional planning coalition has been afforded an opportunity to make recommendations regarding the plan or amendment. A governing body, regional agency, state agency or public utility may adopt an amendment to a land use plan described in paragraph ~~[(f)]~~ *(g)* of subsection 1 of NRS 278.160 without affording the regional planning coalition the opportunity to make recommendations regarding the amendment.

Sec. 5. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods *, including, without limitation, historic neighborhoods*, and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

(d) Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) *Historic neighborhood preservation plan. The plan:*

(1) Must include, without limitation:

(I) ~~*[An]*~~ *A plan to inventory* ~~*[of]*~~ *historic neighborhoods.*

(II) A statement of goals and methods to encourage the preservation of historic neighborhoods.

(2) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.

(e) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

~~[(e)]~~ *(f)* Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

~~[(f)]~~ *(g)* Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

~~[(g)]~~ *(h)* Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

~~[(h)]~~ *(i)* Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

~~[(i)]~~ *(j)* Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

~~[(j)]~~ *(k)* Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation

areas, including, when practicable, the locations and proposed development thereof.

~~[(k)]~~ *(l)* Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

~~[(l)]~~ *(m)* Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

~~[(m)]~~ *(n)* School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

~~[(n)]~~ *(o)* Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

~~[(o)]~~ *(p)* Solid waste disposal plan. Showing general plans for the disposal of solid waste.

~~[(p)]~~ *(q)* Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

~~[(q)]~~ *(r)* Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

~~[(r)]~~ *(s)* Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 278.210 is hereby amended to read as follows:

278.210 1. Before adopting the master plan or any part of it in accordance with NRS 278.170, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which must be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional

planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. Before a public hearing may be held pursuant to subsection 1 in a county whose population is 100,000 or more on an amendment to a master plan, including, without limitation, a gaming enterprise district, if applicable, the person who requested the proposed amendment must hold a neighborhood meeting to provide an explanation of the proposed amendment. Notice of such a meeting must be given by the person requesting the proposed amendment to:

(a) Each owner, as listed on the county assessor's records, of real property located within a radius of 750 feet of the area to which the proposed amendment pertains;

(b) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the area to which the proposed amendment pertains, to the extent this notice does not duplicate the notice given pursuant to paragraph (a);

(c) Each tenant of a mobile home park if that park is located within a radius of 750 feet of the area to which the proposed amendment pertains; and

(d) If a military installation is located within 3,000 feet of the area to which the proposed amendment pertains, the commander of the military installation.

➥ The notice must be sent by mail at least 10 days before the neighborhood meeting and include the date, time, place and purpose of the neighborhood meeting.

3. Except as otherwise provided in NRS 278.225, the adoption of the master plan, or of any amendment, extension or addition thereof, must be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution must refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken must be recorded on the map and plan and descriptive matter by the identifying signatures of the secretary and chairman of the commission.

4. Except as otherwise provided in NRS 278.225, no plan or map, hereafter, may have indicated thereon that it is a part of the master plan until it has been adopted as part of the master plan by the commission as herein provided for the adoption thereof, whenever changed conditions or further studies by the commission require such amendments, extension or addition.

5. Except as otherwise provided in this subsection, the commission shall not amend the land use plan of the master plan set forth in paragraph ~~[(f)]~~ *(g)* of subsection 1 of NRS 278.160, or any portion of such a land use plan, more than four times in a calendar year. The provisions of this subsection do not apply to:

(a) A change in the land use designated for a particular area if the change does not affect more than 25 percent of the area; or

(b) A minor amendment adopted pursuant to NRS 278.225.

6. An attested copy of any part, amendment, extension of or addition to the master plan adopted by the planning commission of any city, county or region in accordance with NRS 278.170 must be certified to the governing body of the city, county or region. The governing body of the city, county or region may authorize such certification by electronic means.

7. An attested copy of any part, amendment, extension of or addition to the master plan adopted by any regional planning commission must be certified to the county planning commission and to the board of county commissioners of each county within the regional district. The county planning commission and board of county commissioners may authorize such certification by electronic means.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 278.235 is hereby amended to read as follows:

278.235 1. If the governing body of a city or county is required to include a housing plan in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing plan pursuant to subparagraph (8) of paragraph ~~[(e)]~~ *(f)* of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:

(a) At the expense of the city or county, as applicable, subsidizing in whole or in part impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land, and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(g) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing

tax credits, private activity bonds or money from a governmental entity for affordable housing, including, without limitation, money received pursuant to 12 U.S.C. § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

3. On or before February 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 2 and transmit the compilation to the Legislature, or the Legislative Commission if the Legislature is not in regular session.

Sec. 13. NRS 278.250 is hereby amended to read as follows:

278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:

(a) To preserve the quality of air and water resources.

(b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

(c) To consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.

(d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.

(e) To provide for recreational needs.

(f) To protect life and property in areas subject to floods, landslides and other natural disasters.

(g) To conform to the adopted population plan, if required by NRS 278.170.

(h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.

(i) To ensure that the development on land is commensurate with the character and the physical limitations of the land.

(j) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.

(k) To promote health and the general welfare.

(l) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing.

(m) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods ~~[.]~~ *and, in counties whose population is 400,000 or more, the protection of historic neighborhoods.*

(n) To promote systems which use solar or wind energy.

(o) To foster the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

5. As used in this section:

(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing.

(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds residential dwellings to build a certain percentage of those dwellings as affordable housing.

(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.

Sec. 14. NRS 278.4787 is hereby amended to read as follows:

278.4787 1. Except as otherwise provided in subsection 5, a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request the governing body of the jurisdiction in which the land is located to assume the maintenance of one or more of the following improvements located on the land:

(a) Landscaping;

(b) Public lighting;

(c) Security walls; and

(d) Trails, parks and open space which provide a substantial public benefit or which are required by the governing body for the primary use of the public.

2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion

that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall specify for the record its reasons for that determination. If the governing body determines that it would be desirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall by ordinance:

(a) Determine the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(1) Benefit the development or subdivision in which the improvements are located; and

(2) Benefit the public.

(b) Create a maintenance district or unit of assessment consisting of the tracts of land or residential units set forth in the petition or include the tracts of land or residential units set forth in the petition in an existing maintenance district or unit of assessment.

(c) Establish the method or, if the tracts or units are included within an existing maintenance district or unit of assessment, apply an existing method for determining:

(1) The amount of an assessment to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements. The amount of the assessment must be determined in accordance with the proportion to which such maintenance will benefit the development or subdivision in which the improvements are located.

(2) The time and manner of payment of the assessment.

(d) Provide that the assessment constitutes a lien upon the tracts of land or residential units within the maintenance district or unit of assessment. The lien must be executed, and has the same priority, as a lien for property taxes.

(e) Prescribe the levels of maintenance to be provided.

(f) Allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(g) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements, including, without limitation, matters relating to the ownership of the improvements and the land on which the improvements are located and any exposure to liability associated with the maintenance of the improvements.

5. If the governing body requires an owner of land to dedicate a tract of land as a trail identified in the recreation plan of the governing body adopted pursuant to paragraph ~~[(j)]~~ *(k)* of subsection 1 of NRS 278.160, the governing body shall:

(a) Accept ownership of the tract; and

(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.

Sec. 15. NRS 279.608 is hereby amended to read as follows:

279.608 1. If, at any time after the adoption of a redevelopment plan by the legislative body, the agency desires to take an action that will constitute a material deviation from the plan or otherwise determines that it would be necessary or desirable to amend the plan, the agency must recommend the amendment of the plan to the legislative body. An amendment may include the addition of one or more areas to any redevelopment area.

2. Before recommending amendment of the plan, the agency shall hold a public hearing on the proposed amendment. Notice of that hearing must be published at least 10 days before the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing must include a legal description of the boundaries of the area designated in the

plan to be amended and a general statement of the purpose of the amendment.

3. In addition to the notice published pursuant to subsection 2, the agency shall cause a notice of hearing on a proposed amendment to the plan to be sent by mail at least 10 days before the date of the hearing to each owner of real property, as listed in the records of the county assessor, whom the agency determines is likely to be directly affected by the proposed amendment. The notice must:

(a) Set forth the date, time, place and purpose of the hearing and a physical description of, or a map detailing, the proposed amendment; and

(b) Contain a brief summary of the intent of the proposed amendment.

4. If after the public hearing, the agency recommends substantial changes in the plan which affect the master or community plan adopted by the planning commission or the legislative body, those changes must be submitted by the agency to the planning commission for its report and recommendation. The planning commission shall give its report and recommendations to the legislative body within 30 days after the agency submitted the changes to the planning commission.

5. After receiving the recommendation of the agency concerning the changes in the plan, the legislative body shall hold a public hearing on the proposed amendment, notice of which must be published in a newspaper in the manner designated for notice of hearing by the agency. If after that hearing the legislative body determines that the amendments in the plan, proposed by the agency, are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan.

6. As used in this section, "material deviation" means an action that, if taken, would alter significantly one or more of the aspects of a redevelopment plan that are required to be shown in the redevelopment plan pursuant to NRS 279.572. The term includes, without limitation, the vacation of a street that is depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ *(q)* of subsection 1 of NRS 278.160 which has been adopted for the community and the relocation of a public park. The term does not include the vacation of a street that is not depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ *(q)* of subsection 1 of NRS 278.160 which has been adopted for the community.

Sec. 16. NRS 268.190 is hereby amended to read as follows:

268.190 Except as otherwise provided by law, the city planning commission may:

1. Recommend and advise the city council and all other public authorities concerning:

(a) The laying out, widening, extending, paving, parking and locating of streets, sidewalks and boulevards.

(b) The betterment of housing and sanitary conditions, and the establishment of zones or districts within which lots or buildings may be restricted to residential use, or from which the establishment, conduct or

operation of certain business, manufacturing or other enterprises may be excluded, and limiting the height, area and bulk of buildings and structures therein.

2. Recommend to the city council and all other public authorities plans and regulations for the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, which must include for each city a population plan if required by NRS 278.170 , ~~[and]~~ a plan for the development of affordable housing ~~[.]~~ *and, for each city located in a county whose population is 400,000 or more, a plan to inventory and preserve historic neighborhoods.*

3. Perform any other acts and things necessary or proper to carry out the provisions of NRS 268.110 to 268.220, inclusive, and in general to study and propose such measures as may be for the municipal welfare and in the interest of protecting the municipal area's natural resources from impairment.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. Section 3 of chapter 407, Statutes of Nevada 2007, at page 1782, is hereby amended to read as follows:

Sec. 3. ~~["Advisory]~~ "Board" means the Southern Nevada Enterprise Community ~~[Advisory]~~ Board created pursuant to section 8 of this act.

Sec. 26. Section 8 of chapter 407, Statutes of Nevada 2007, at page 1782, is hereby amended to read as follows:

Sec. 8. 1. The Southern Nevada Enterprise Community ~~[Advisory]~~ Board is hereby created.

2. The ~~[Advisory]~~ Board consists of nine members, appointed in consultation with residents of the Community, as follows:

(a) One member of the Nevada Congressional Delegation selected from among its membership or his designee;

(b) One member of the ~~[Nevada Legislature who represents]~~ *Assembly and one member of the Senate who represent* the Community ~~[,]~~ *selected by the Legislative Commission;*

(c) One member of the Clark County Board of County Commissioners selected from among its membership ; ~~[or his designee;]~~

(d) One member of the Las Vegas City Council from among its membership ; ~~[or his designee;]~~

(e) One member of the North Las Vegas City Council from among its membership *;* ~~[or his designee;]~~

(f) Two residents of the Community, recommended and selected ~~[jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council;]~~ *by the Stop the F Street Closure, LLC; and*

(g) A representative of the private sector appointed by the Chamber of Commerce established in the Community *.* ~~[; and~~

~~(h) A representative of the nonprofit charitable, educational and religious organizations in the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council.]~~

3. Each member of the ~~[Advisory]~~ Board serves for a term of 3 years. A vacancy on the ~~[Advisory]~~ Board must be filled in the same manner as the original appointment. A member may be reappointed to the ~~[Advisory]~~ Board.

4. The members of the ~~[Advisory]~~ Board shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on August 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the ~~[Advisory]~~ Board shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. The City of ~~[North]~~ Las Vegas shall provide administrative support for the ~~[Advisory]~~ Board.

Sec. 27. Section 9 of chapter 407, Statutes of Nevada 2007, at page 1783, is hereby amended to read as follows:

Sec. 9. The primary purposes of the ~~[Advisory]~~ Board are to:

1. Advise the governmental entities that have members on the ~~[Advisory]~~ Board with respect to the Project; ~~[and]~~

2. *Identify projects that may be eligible for federal funding or funding through city and county redevelopment authorities, and request appropriations for those projects from the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council or the governing boards of their respective redevelopment authorities;*

3. Carry out such additional projects as may be directed by the Legislature; and

4. Ensure that the needs and opinions of the residents of the Community are reflected adequately by the Project ~~[.]~~ *and any additional projects assigned to the Board.*

Sec. 28. Section 11 of chapter 407, Statutes of Nevada 2007, at page 1783, is hereby amended to read as follows:

Sec. 11. 1. On or before January 31, 2008, the ~~[Advisory]~~ Board shall prepare a written plan to carry out the Project to address the needs and issues of the Community.

2. The ~~[Advisory]~~ Board shall, within 120 days after preparing the written plan:

(a) Hold at least two public hearings on the written plan, each of which must be preceded by at least 30 days' notice within the Community; and

(b) Approve or reject the written plan based on input from the Community received at the public hearings.

3. A written plan adopted by the ~~[Advisory]~~ Board must:

(a) Set forth an adequate framework for carrying out the Project;

(b) Set forth a reasonable period in which to accomplish the goals of the Project; and

(c) Incorporate each of the required elements of the Project, as set forth in section 12 of this act.

4. If the ~~[Advisory]~~ Board rejects the written plan, the ~~[Advisory]~~ Board shall:

(a) Provide to the appropriate officers of the governmental entities that have members on the ~~[Advisory]~~ Board a written explanation of its reasons for the rejection; and

(b) Prepare a revised written plan and repeat the notice and hearings required by subsection 2 before approving or rejecting the revised written plan.

5. The Board shall revise the parameters of the Project and the written plan as necessary to ensure that it continues to address the needs of the Community.

Sec. 29. Section 13 of chapter 407, Statutes of Nevada 2007, at page 1784, is hereby amended to read as follows:

Sec. 13. The ~~[Advisory]~~ Board may accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the Project.

Sec. 30. Section 14 of chapter 407, Statutes of Nevada 2007, at page 1784, is hereby amended to read as follows:

Sec. 14. On or before February 1, 2009, *and every 2 years thereafter,* the ~~[Advisory]~~ Board shall submit to the Director of the Legislative Counsel Bureau for transmission to ~~[the 75th Session of]~~ the Nevada Legislature a report that summarizes the activities of the ~~[Advisory]~~ Board . ~~[during the period between the effective date of this act and December 31, 2008.]~~

Sec. 31. The Legislature hereby finds and declares that a general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in section 32 of this act because of the number of atypical factors and special conditions relating thereto, including the economic and geographic diversity

of the local governments of this State, the unique growth patterns occurring in Clark County, the special conditions experienced in the City of Las Vegas related to the need to revitalize specific areas of the City of Las Vegas to ensure that the residents of more densely populated urban areas are provided with a safe environment in which to live and work and the necessity to ameliorate hardships imposed on specific areas of the City of Las Vegas as a consequence of projects undertaken for the general benefit of the people of this State.

Sec. 32. The City of Las Vegas shall administer a funding framework for the purposes of reopening traffic on F Street under Interstate 15 in Las Vegas as follows:

1. The Nevada Department of Transportation shall pay the cost of clearing the project to reopen F Street through the National Environmental Policy Act process using existing funds available for this purpose. Expenditure of those funds is hereby authorized.

2. The City of Las Vegas shall contract to design the construction of the project to reopen F Street up to a maximum of $2.5 million, using funds from the City of Las Vegas Redevelopment Agency for this purpose. The Nevada Department of Transportation shall assist in funding any portion of the design cost exceeding $2.5 million, and the use of funds available for this purpose is hereby authorized.

3. The City of Las Vegas and the Nevada Department of Transportation shall work collaboratively to fund the construction of the project to reopen F Street as follows:

(a) The City of Las Vegas shall provide $20 million of the funding for the project to reopen F Street by leveraging its share of the county special 5-cent ad valorem capital project tax to issue medium-term obligations after July 1, 2011.

(b) To reopen F Street, the Nevada Department of Transportation shall work with the City of Las Vegas to seek other sources for the remaining portion of the construction costs based on the bridge design documents, including federal funding or additional revenue enhancements provided by the Nevada Department of Transportation. The Nevada Department of Transportation shall designate the project to reopen F Street as a high priority project for funding by any additional revenue enhancements.

Sec. 33. 1. This section and sections 1, 1.7 and 25 to 32, inclusive, of this act become effective upon passage and approval.

2. Sections 1.4 and 2 to 24, inclusive, of this act become effective on October 1, 2009.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment addresses the issue in southern Nevada within the west Las Vegas area relating to the closure of F Street that received publicity based on the concerns of residents in that area to have that street and the underpass below I-15 reopened. The amendment is based on

negotiation and agreement with the City of Las Vegas and the Nevada Department of Transportation.

The amendment calls for a plan to reopen F Street. It has a framework for the funding of that process whereby the City of Las Vegas will commit up to $22.5 million towards the project with the initial funds of $2.5 million coming for the design-and-cost estimates required as well as the environmental assessment. The language of the amendment indicates that the city will work with the Nevada Department of Transportation to identify federal funds, where possible, through stimulus funds as well as the Intermodal Surface Transportation Efficiency Act to supplement the project at the federal level.

To the extent that additional funds are needed to complete the project, revenue from the Highway Fund will be dedicated for this purpose.

Amendment adopted.

Senator Horsford moved that all necessary rules be suspended, that Assembly Bill No. 304 be declared an emergency measure under the Constitution and that the reprinting of Assembly Bill No. 304 be dispensed with, and that the Secretary be authorized to insert Amendment No. 907 adopted by the Senate and the bill be immediately placed on General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 304.

Bill read third time.

Remarks by Senators Cegavske and Horsford.

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

SENATOR CEGAVSKE:
What is the fiscal note on this?

SENATOR HORSFORD:
There is no impact to the State General Fund. The fiscal note comes from the commitment from the City of Las Vegas based on the commitment of $22.5 million towards the project.

Roll call on Assembly Bill No. 304:
YEAS—19.
NAYS—Carlton, Cegavske—2.

Assembly Bill No. 304 having received a constitutional majority, Mr. President declared it passed, as amended.

Senator Horsford moved that all necessary rules be suspended and that Assembly Bill No. 304 be immediately transmitted to the Assembly.

Motion carried unanimously.

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

Senate in recess at 6:05 p.m.

SENATE IN SESSION

At 6:47 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 218, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

TERRY CARE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 429.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 697 to Assembly Bill No. 266; Senate Amendment No. 766 to Assembly Bill No. 281; Senate Amendment No. 925 to Assembly Bill No. 547.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

GENERAL FILE AND THIRD READING

Assembly Bill No. 130.

Bill read third time.

The following amendment was proposed by Senator Lee:

Amendment No. 923.

"SUMMARY—Revises provisions governing metropolitan police departments. (BDR 22-632)"

"AN ACT relating to police departments; revising provisions governing the membership of a metropolitan police committee on fiscal affairs; revising provisions governing negotiations between metropolitan police departments and their employees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that each representative of a political subdivision that participates on a metropolitan police committee on fiscal affairs must be a member of the governing body of the political subdivision and serves at the pleasure of the governing body making the appointment. (NRS 280.130) Section 2 of this bill provides instead that each member of the committee serves for a term of 2 years and may be removed at any time for cause by the governing body which appointed the member. Section 2 also increases the compensation of the general public member of the committee from $40 for each day of service to $80 for each day of service.

Existing law requires that in negotiations arising under chapter 288 of NRS between a metropolitan police department and its employees, the department must be represented by a metropolitan police committee on fiscal affairs or two persons designated by the committee and by the sheriff or a person designated by him. (NRS 280.320) Section 3 of this bill provides instead that the department must be represented solely by the sheriff or ~~[a person]~~ *one or more persons* designated by him, ~~[and]~~ *but requires the committee to designate one representative from each participating political subdivision to monitor the negotiations. Section 3 also* requires the sheriff to submit any

tentative agreement reached in the negotiations to the committee for its approval.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 280.130 is hereby amended to read as follows:

280.130 1. The committee consists of two representatives from each participating political subdivision.

2. Representatives of the participating political subdivisions are not entitled to receive any additional compensation or be reimbursed by the department for any expenses incurred while serving on the committee.

3. Each representative of a participating political subdivision must be a member of its governing body . ~~[and serves at the pleasure of the governing body making the appointment.]~~ *Except as otherwise provided in subsection 4, the term of each member of the committee is 2 years. The governing body that appointed a member may remove the member at any time for cause.*

4. The members of the committee shall, by *a* majority vote, select an additional member of the committee from the general public from a list consisting of three persons nominated by each participating political subdivision and three persons nominated by the sheriff. That person:

(a) Must reside in the area served by the department.

(b) Shall serve until August 1 next succeeding and until his successor is selected.

(c) May succeed himself.

(d) Is entitled to receive as compensation ~~[$40]~~ *$80* for each day of service.

(e) Is entitled to reimbursement for his necessary travel and per diem expenses in the manner provided by the committee for the reimbursement of officers and employees of the department.

5. If the members of the committee fail to agree on the additional member to be selected pursuant to subsection 4 within 30 days after their initial meeting following the merger or by August 1 of any year thereafter, the additional member of the committee must be appointed by the Governor without regard to the lists submitted. The person so appointed must reside in the area served by the department.

6. At its first meeting and in August of each year thereafter, the committee shall select one of its members to act as chairman.

Sec. 3. NRS 280.320 is hereby amended to read as follows:

280.320 1. A department is a local government employer for the purpose of the Local Government Employee-Management Relations Act and a public employer for the purpose of the Public Employees' Retirement Act.

2. In negotiations arising under the provisions of chapter 288 of NRS:

(a) The committee ~~[or two or more persons designated by it; and]~~ *shall designate one representative from each participating political subdivision to monitor the negotiations;*

(b) The sheriff or ~~[a person]~~ *one or more persons* designated by him ~~[,~~ ~~]~~ shall represent the department ~~[.]~~ *; and*

~~*[(b)]*~~ *(c) The sheriff shall submit any tentative agreement reached in the negotiations to the committee for its approval.*

3. In negotiations arising under the provisions of chapter 288 of NRS, a school police unit must be considered a separate bargaining unit.

Sec. 4. This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee, Schneider, Townsend, Cegavske Hardy, Horsford and Parks.

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

SENATOR LEE:

Amendment no. 923 to Assembly Bill No. 130 provides that the sheriff may designate one or more persons to represent the Metropolitan Police Department in certain employee negotiations. He can put the city, county or more of his people there. This provision would allow the sheriff to designate as many people representing any interested party or parties including the city or county as he deems necessary.

It also specifies that the Metropolitan Police Committee on Fiscal Affairs shall designate one representative from the city and one from the county to monitor the employee negotiations. This essentially means that the local governing bodies can be "in the room" during all or a portion of the negotiations. It clarifies that the sheriff shall submit any tentative agreements reached in the negotiations to the committee for final approval. The Fiscal Affairs Committee that will get the tentative agreement is comprised of two county commissioners and two city council members who are there by statute on behalf of their governing body.

SENATOR SCHNEIDER:

I voted against the bill yesterday and asked for it to be reconsidered today. Last nigh,t I did not grasp what the Chair of Government Affairs was trying to explain. We went over this again today, and I understand it better. This is a good amendment, and I would like to thank the Chair for explaining it.

SENATOR TOWNSEND:

Section 3, lines 38, 39 and 40 says the "committee shall," which I assume is the Labor Management Committee for Fiscal Affairs, "designate one representative for each participating political subdivision to monitor the negotiations." Could you explain that? It is my understanding that the representatives of the political subdivisions who actually pay for these contracts are part of the negotiations now. This says they will now monitor the negotiations. That is a different standard.

SENATOR LEE:

Currently, in this bill as approved, the sheriff can put anyone he wants on the board. There are other portions of the negotiations that are noneconomic. This will put people on the board that will be on that time discussing those issues. They are more employee-related grievances. This would allow the city and the county to have someone there to monitor those noneconomic, internal issues. Then, the sheriff may turn to the economic situations and has the ability to put the city and the county on the board to go over the economic situations. The monitors can still stay there. This provides for an additional two people to be there to listen and to report to their county or city manager. This gives the sheriff flexibility. This does not take away anyone from listening and being a part of the process.

SENATOR CEGAVSKE:

One page 3, line 21, it says you have doubled the compensation, but this says there is no fiscal note to the local government or the State. Who pays that?

SENATOR LEE:
This was doubled to put it in compliance where everyone else is on committees. There is a typo where there should have been a "yes" instead of "no" on local government.

SENATOR CEGAVSKE:
Has the sheriff in Clark County signed off on this?

SENATOR LEE:
I have not heard from the sheriff. The person who negotiates for him understands this is happening and has participated in this and has come to the agreement that they could live with this. Whether they want to is another issue.

SENATOR CEGAVSKE:
Have they agreed to this?

SENATOR LEE:
I will not say they have agreed to this, but they have had a place at the table with it.

SENATOR HARDY:
We are working on the reforms for the Chapter 288 process. There is an agreement in principle on these things. Is there anything in this bill that would exempt this process from any current requirements that might otherwise apply in Chapter 288.

SENATOR HORSFORD:
The amendment proposed by the Chair of Government Affairs deals with the actual negotiation process. The provisions in Senate Bill No. 427 deal with the transparency process once the contract has been negotiated. I do not know if the provisions of the amendment conflict with or negate the efforts that we have worked on in that reform package.

SENATOR HARDY:
Therefore, the provisions for transparency that are being negotiated will apply in this case.

SENATOR HORSFORD:
Yes.

SENATOR PARKS:
In the late 1970s and early 1980s, I was the Budget Director for the City of Las Vegas. I was the individual the City of Las Vegas designated to sit in on the labor negotiations. I was selected by the City of Las Vegas, attended all of the labor negotiations, both economic and noneconomic meetings, and I reported back to the City of Las Vegas. On line 38, "committee" refers to the Fiscal Affairs Committee. When I sat through these meetings, the sheriff had designated an undersheriff to be the primary negotiator of the contracts.

SENATOR TOWNSEND:
The second reprint of the bill has three components. Section 2 states, "each representative of a participating political subdivision must be a member of its governing body." It strikes out, "serves at the pleasure of the governing body making the appointment." It replaces that with, "the term of each member of the Committee is two years. The governing body that appointed a member may remove that member at any time for cause." That remains in the amendment.

The dollar figure that is doubled for the compensation remains in the bill. In section 3, the language is changed by striking out the language from the original bill, "negotiations arising under provisions of chapter 288," and "the Committee or two or more persons designated by it" is struck out, and it says, "the Sheriff or person designated by him shall represent the Department and the Sheriff, etc." The bill says, "The Committee shall designate one representative from each participating political subdivision to monitor the negotiations." The way I read that change from this amendment, striking provisions out of the bill, is that individuals representing the political subdivisions will no longer be participants in the negotiations. They will be monitoring the negotiations.

SENATOR LEE:

On line 41, it says, "the Sheriff or one or more persons designated by him." This gives the sheriff the opportunity to put the people in the room who have the most to do with the negotiations. If the sheriff wants four people from the city and four people from the county, he can do that. The monitoring is by two additional persons who will be there to monitor the entire process. When discussing non-economic issues, there will still be someone there. They will be invited by the Sheriff to be there. Since the sheriff is responsible to the governing body to get this budget through, then he will put people from the city and the county there, as they bring forth their issues.

SENATOR CEGAVSKE:

Did the sheriff ask for this? Or who did it come from? I have the impression he is not in favor of this, though through this discussion, it sounds as if he is.

SENATOR LEE:

I have not heard from the Sheriff. His representative has told me that the sheriff wants everything to be status quo the way it is. This has happened with the sheriff's representative in the room. He has had input into this amendment. The cities and counties have been there. It is one of those agreements that has been forced upon people, but all of their thoughts were put into the amendment. The sheriff is not for the amendment. The Police Protective Association was the prime sponsor of this amendment.

Motion carried on a division of the house.

Amendment adopted.

Senator Horsford moved that all necessary rules be suspended, that the reprinting of Assembly Bill No. 130 be dispensed with and that the Secretary be authorized to insert Amendment No. 923 adopted by the Senate and the bill be placed on the General File for this legislative day.

Motion carried unanimously.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that for the remainder of the Legislative Session, all bills and resolutions that have been passed or adopted be immediately transmitted to the Assembly, time permitting.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 218.

Bill read third time.

The following amendment was proposed by Senators Care, Amodei, Copening, Schneider and Washington:

Amendment No. 913.

"SUMMARY— ~~[Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in]~~ *Makes various changes relating to* gaming. (BDR 41-603)"

"AN ACT relating to gaming; authorizing the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming; *revising the definition of "sports pools"; revising the provisions relating to off-track pari-mutuel wagering; repealing provisions relating to the designation of gaming enterprise districts;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain persons who are involved in gaming are required to be licensed, registered, found suitable or approved by the Nevada Gaming Commission, including, for example, persons who: (1) deal, operate, carry on, conduct, maintain or expose for play in this State any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool; (2) provide or maintain any information service; (3) operate a gaming salon; (4) receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool; (5) furnish any equipment of any gambling game for any interest, percentage or share of the money or property played; or (6) are employees, agents, guardians, personal representatives, lenders or holders of indebtedness of a gaming licensee and who, in the opinion of the Nevada Gaming Commission, have the power to exercise a significant influence over a licensee's operation of a gaming establishment. (NRS 463.160-463.167)

~~[This]~~ *Section 1 of this* bill provides that if an applicant for a license, registration, finding of suitability or any required approval is a governmental entity or is owned or controlled by a governmental entity, the applicant must file such applications for licenses, registrations, findings of suitability or any other approvals as the Nevada Gaming Commission may prescribe.

Existing law defines a "sports pool" as the business of accepting wagers on sporting events by any system or method of wagering. (NRS 463.0193) The regulations of the Nevada Gaming Commission provide that a "sports pool" means a business that accepts wagers on sporting events or other events. (Regulation 22.010 of the Nevada Gaming Commission) Section 3 of this bill amends the statutory definition to include "other events" within the definition of "sports pool" in a manner consistent with the regulations.

Sections 5 and 7 of this bill clarify that, in addition to authorizing off-track pari-mutuel wagering on horse races, existing law also authorizes off-track pari-mutuel wagering on dog races. (NRS 464.005, 466.095)

Existing law authorizes the Commission to appoint an Off-Track Pari-Mutuel Wagering Committee, which, if appointed, has the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering. (NRS 464.020) Section 6 of this bill provides that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.

Existing law provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 400,000 or more (currently Clark County) unless the establishment is located in a gaming enterprise district, which is defined as "an area that has been approved by a county, city or town as suitable for

operating an establishment that has been issued a nonrestricted license." (NRS 463.0158, 463.308) Sections 4 and 8-14 of this bill eliminate the provisions of existing law relating to the designation of gaming enterprise districts.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An applicant which is a governmental entity or which is owned or controlled by a governmental entity must file such applications for licenses, registrations, findings of suitability or any other approvals as the Commission may prescribe.

2. As used in this section, "governmental entity" means a government or any political subdivision of a government.

Sec. 2. NRS 463.016425 is hereby amended to read as follows:

463.016425 1. "Interactive gaming" means the conduct of gambling games through the use of communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. The term does not include the operation of a race book or sports pool that uses communications technology approved by the Board pursuant to regulations adopted by the Commission to accept wagers originating within this state for races , or sporting events ~~[.]~~ *or other events.*

2. As used in this section, "communications technology" means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including, without limitation, the Internet and intranets.

Sec. 3. NRS 463.0193 is hereby amended to read as follows:

463.0193 "Sports pool" means the business of accepting wagers on sporting events *or other events* by any system or method of wagering.

Sec. 4. NRS 463.302 is hereby amended to read as follows:

463.302 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board may, in its sole and absolute discretion, allow a licensee to move the location of its establishment and transfer its restricted or nonrestricted license to:

(a) A location within a redevelopment area created pursuant to chapter 279 of NRS, if the redevelopment area is located in the same local governmental jurisdiction as the existing location of the establishment;

(b) Any other location, if the move and transfer are necessary because the existing location of the establishment has been taken by the State or a local

government through condemnation or eminent domain in accordance with a final order of condemnation entered before June 17, 2005; or

(c) In any county other than a county whose population is 100,000 or more but less than 400,000, any other location within the same local governmental jurisdiction as the existing location of the establishment, if the move and transfer are necessary because the existing location of the establishment has been taken by the State or a local government through condemnation or eminent domain in accordance with a final order of condemnation entered on or after June 17, 2005.

2. The Board shall not approve a move and transfer pursuant to subsection 1 unless, before the move and transfer, the licensee receives all necessary approvals from the local government having jurisdiction over the location to which the establishment wants to move and transfer its license.

3. Before a move and transfer pursuant to subsection 1, the Board may require the licensee to apply for a new license pursuant to the provisions of this chapter.

4. The provisions of subsection 1 do not apply to an establishment that is ~~[(a) A]~~ *a* resort hotel*.* ~~[; or~~

~~(b) Located in a county, city or town which has established one or more gaming enterprise districts.]~~

Sec. 5. *NRS 464.005 is hereby amended to read as follows:*

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

1. "Gross revenue" means the amount of the commission received by a licensee that is deducted from off-track pari-mutuel wagering, plus breakage and the face amount of unpaid winning tickets that remain unpaid for a period specified by the Nevada Gaming Commission.

2. "Off-track pari-mutuel system" means a computerized system, or component of such a system, that is used with regard to a pari-mutuel pool to transmit information such as amounts wagered, odds and payoffs on races.

3. "Off-track pari-mutuel wagering" means any pari-mutuel system of wagering approved by the Nevada Gaming Commission for the acceptance of wagers on:

(a) ~~[Races]~~ *Horse or dog races* which take place outside of this state; or

(b) Sporting events.

4. "Operator of a system" means a person engaged in providing an off-track pari-mutuel system.

5. "Pari-mutuel system of wagering" means any system whereby wagers with respect to the outcome of a race or sporting event are placed in a wagering pool conducted by a person licensed or otherwise permitted to do so under state law, and in which the participants are wagering with each other and not against that person. The term includes off-track pari-mutuel wagering.

Sec. 6. *NRS 464.020 is hereby amended to read as follows:*

464.020 1. The Nevada Gaming Commission is charged with the administration of this chapter for the protection of the public and in the public interest.

2. The Nevada Gaming Commission may issue licenses permitting the conduct of the pari-mutuel system of wagering, including off-track pari-mutuel wagering, and may adopt, amend and repeal regulations relating to the conduct of such wagering.

3. The wagering must be conducted only by the licensee at the times determined by the Nevada Gaming Commission and only:

(a) Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or

(b) Within a licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering.

➥ This subsection does not prohibit a person licensed to accept, pursuant to regulations adopted by the Nevada Gaming Commission, off-track pari-mutuel wagers from accepting wagers made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal.

4. The regulations of the Nevada Gaming Commission may include, without limitation:

(a) Requiring fingerprinting of an applicant or licensee, or other method of identification.

(b) Requiring information concerning an applicant's antecedents, habits and character.

(c) Prescribing the method and form of application which any applicant for a license issued pursuant to this chapter must follow and complete before consideration of his application by the Nevada Gaming Commission.

(d) Prescribing the permissible communications technology and requiring the implementation of border control technology that will ensure that a person cannot place a wager with a race book in this State from another state or another location where placing such a wager is illegal.

5. The Nevada Gaming Commission may appoint an Off-Track Pari-Mutuel Wagering Committee consisting of 11 persons who are licensed to engage in off-track pari-mutuel wagering. If the Commission appoints such a Committee, it shall appoint to the Committee:

(a) Five members from a list of nominees provided by the State Association of Gaming Establishments whose members collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the preceding year;

(b) Three members who, in the preceding year, paid gross revenue fees pursuant to NRS 463.370 in an amount that was less than the average amount of gross revenue fees paid by licensees engaged in off-track pari-mutuel wagering in the preceding year; and

(c) Three other members.

➥ If a vacancy occurs in a position on the Committee for any reason, including, but not limited to, termination of a member, the Commission shall appoint a successor member who satisfies the same criteria in paragraph (a), (b) or (c) that applied to the member whose position has been vacated.

6. If the Nevada Gaming Commission appoints an Off-Track Pari-Mutuel Wagering Committee pursuant to subsection 5, the Commission shall:

(a) Grant to the Off-Track Pari-Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering with:

(1) A person who is licensed or otherwise permitted to operate a wagering pool in another state; and

(2) A person who is licensed pursuant to chapter 464 of NRS as an operator of a system.

(b) *Require that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.*

(c) Require the Off-Track Pari-Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off-track pari-mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race pool that the Committee has negotiated to bring into or provide within this State.

7. The Nevada Gaming Commission shall, and it is granted the power to, demand access to and inspect all books and records of any person licensed pursuant to this chapter pertaining to and affecting the subject of the license.

Sec. 7. NRS 466.095 is hereby amended to read as follows:

466.095 The Nevada Gaming Commission shall not issue any license ~~[under this chapter]~~ to conduct dog racing or pari-mutuel wagering in connection with ~~[any dog race.]~~ *dog racing pursuant to this chapter. This section does not prohibit off-track pari-mutuel wagering on dog racing pursuant to chapter 464 of NRS.*

Sec. 8. NRS 278.02528 is hereby amended to read as follows:

278.02528 1. The regional planning coalition shall develop a comprehensive regional policy plan for the balanced economic, social, physical, environmental and fiscal development and orderly management of the growth of the region for a period of at least 20 years. The comprehensive regional policy plan must contain recommendations of policy to carry out each part of the plan.

2. In developing the plan, the coalition:

(a) May consult with other entities that are interested or involved in regional planning within the county.

(b) Shall ensure that the comprehensive regional policy plan includes goals, policies, maps and other documents relating to:

(1) Conservation, including, without limitation, policies relating to the use and protection of natural resources.

(2) Population, including, without limitation, standardized projections for population growth in the region.

(3) Land use and development, including, without limitation, a map of land use plans that have been adopted by local governmental entities within the region, and that the plan addresses, if applicable:

(I) Mixed-use development, transit-oriented development[,] *and* master-planned communities ~~[and gaming enterprise districts;]~~ ; and

(II) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation.

(4) Transportation.

(5) The efficient provision of public facilities and services, including, without limitation, roads, water and sewer service, police and fire protection, mass transit, libraries and parks.

(6) Air quality.

(7) Strategies to promote and encourage:

(I) The interspersion of new housing and businesses in established neighborhoods; and

(II) Development in areas in which public services are available.

3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the adoption or amendment is by resolution of the regional planning coalition:

(a) Carried by the affirmative votes of not less than two-thirds of its total membership; and

(b) Ratified by the board of county commissioners of the county and the city council of each city that jointly established the regional planning coalition pursuant to NRS 278.02514.

Sec. 9. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected

necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development ~~[,]~~ *and* master-planned communities ~~[and gaming enterprise districts;]~~ ; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

(d) Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means

an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 10. *NRS 278.160 is hereby amended to read as follows:*

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(e) Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

(f) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable:

(I) Mixed-use development, transit-oriented development ~~[,]~~ *and* master-planned communities ~~[and gaming enterprise districts,]~~ ; and

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(g) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(h) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(i) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

(j) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(k) Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

(l) Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

(m) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

(n) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(o) Solid waste disposal plan. Showing general plans for the disposal of solid waste.

(p) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(q) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(r) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 11. *NRS 278.210 is hereby amended to read as follows:*

278.210 1. Before adopting the master plan or any part of it in accordance with NRS 278.170, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which must be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. Before a public hearing may be held pursuant to subsection 1 in a county whose population is 100,000 or more on an amendment to a master

plan, ~~[including, without limitation, a gaming enterprise district,]~~ if applicable, the person who requested the proposed amendment must hold a neighborhood meeting to provide an explanation of the proposed amendment. Notice of such a meeting must be given by the person requesting the proposed amendment to:

(a) Each owner, as listed on the county assessor's records, of real property located within a radius of 750 feet of the area to which the proposed amendment pertains;

(b) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the area to which the proposed amendment pertains, to the extent this notice does not duplicate the notice given pursuant to paragraph (a);

(c) Each tenant of a mobile home park if that park is located within a radius of 750 feet of the area to which the proposed amendment pertains; and

(d) If a military installation is located within 3,000 feet of the area to which the proposed amendment pertains, the commander of the military installation.

➥ The notice must be sent by mail at least 10 days before the neighborhood meeting and include the date, time, place and purpose of the neighborhood meeting.

3. Except as otherwise provided in NRS 278.225, the adoption of the master plan, or of any amendment, extension or addition thereof, must be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution must refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken must be recorded on the map and plan and descriptive matter by the identifying signatures of the secretary and chairman of the commission.

4. Except as otherwise provided in NRS 278.225, no plan or map, hereafter, may have indicated thereon that it is a part of the master plan until it has been adopted as part of the master plan by the commission as herein provided for the adoption thereof, whenever changed conditions or further studies by the commission require such amendments, extension or addition.

5. Except as otherwise provided in this subsection, the commission shall not amend the land use plan of the master plan set forth in paragraph (f) of subsection 1 of NRS 278.160, or any portion of such a land use plan, more than four times in a calendar year. The provisions of this subsection do not apply to:

(a) A change in the land use designated for a particular area if the change does not affect more than 25 percent of the area; or

(b) A minor amendment adopted pursuant to NRS 278.225.

6. An attested copy of any part, amendment, extension of or addition to the master plan adopted by the planning commission of any city, county or region in accordance with NRS 278.170 must be certified to the governing

body of the city, county or region. The governing body of the city, county or region may authorize such certification by electronic means.

7. An attested copy of any part, amendment, extension of or addition to the master plan adopted by any regional planning commission must be certified to the county planning commission and to the board of county commissioners of each county within the regional district. The county planning commission and board of county commissioners may authorize such certification by electronic means.

Sec. 12. *NRS 278.315 is hereby amended to read as follows:*

278.315 1. The governing body may provide by ordinance for the granting of variances, special use permits, conditional use permits or other special exceptions by the board of adjustment, the planning commission or a hearing examiner appointed pursuant to NRS 278.262. The governing body may impose this duty entirely on the board, commission or examiner, respectively, or provide for the granting of enumerated categories of variances, special use permits, conditional use permits or special exceptions by the board, commission or examiner.

2. A hearing to consider an application for the granting of a variance, special use permit, conditional use permit or special exception must be held before the board of adjustment, planning commission or hearing examiner within 65 days after the filing of the application, unless a longer time or a different process of review is provided in an agreement entered into pursuant to NRS 278.0201.

3. In a county whose population is less than 100,000, notice setting forth the time, place and purpose of the hearing must be sent at least 10 days before the hearing to:

(a) The applicant;

(b) Each owner of real property, as listed on the county assessor's records, located within 300 feet of the property in question;

(c) If a mobile home park is located within 300 feet of the property in question, each tenant of that mobile home park;

(d) Any advisory board which has been established for the affected area by the governing body; and

(e) If a military installation is located within 3,000 feet of the property in question, the commander of that military installation.

4. Except as otherwise provided in subsection 7, in a county whose population is 100,000 or more, a notice setting forth the time, place and purpose of the hearing must be sent at least 10 days before the hearing to:

(a) The applicant;

(b) If the application is for a deviation of at least 10 percent but not more than 30 percent from a standard for development:

(1) Each owner, as listed on the county assessor's records, of real property located within 100 feet of the property in question; and

(2) Each tenant of a mobile home park located within 100 feet of the property in question;

(c) If the application is for a special use permit or a deviation of more than 30 percent from a standard for development:

(1) Each owner, as listed on the county assessor's records, of real property located within 500 feet of the property in question;

(2) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (1); and

(3) Each tenant of a mobile home park located within 500 feet of the property in question;

(d) If the application is for a project of regional significance, as that term is described in NRS 278.02542:

(1) Each owner, as listed on the county assessor's records, of real property located within 750 feet of the property in question;

(2) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (1); and

(3) Each tenant of a mobile home park located within 750 feet of the property in question;

(e) Any advisory board which has been established for the affected area by the governing body; and

(f) If a military installation is located within 3,000 feet of the property in question, the commander of that military installation.

5. If an application is filed with the governing body for the issuance of a special use permit with regard to property situated within an unincorporated town that is located more than 10 miles from an incorporated city, the governing body shall, at least 10 days before the hearing on the application is held pursuant to subsection 2, transmit a copy of any information pertinent to the application to the town board, citizens' advisory council or town advisory board, whichever is applicable, of the unincorporated town. The town board, citizens' advisory council or town advisory board may make recommendations regarding the application and submit its recommendations before the hearing on the application is held pursuant to subsection 2. The governing body or other authorized person or entity conducting the hearing shall consider any recommendations submitted by the town board, citizens' advisory council or town advisory board regarding the application and, within 10 days after making its decision on the application, shall transmit a copy of its decision to the town board, citizens' advisory council or town advisory board.

6. An applicant or a protestant may appeal a decision of the board of adjustment, planning commission or hearing examiner in accordance with the ordinance adopted pursuant to NRS 278.3195.

7. In a county whose population is 400,000 or more, if the application is for the issuance of a special use permit for an establishment which serves

alcoholic beverages for consumption on or off of the premises as its primary business, ~~[in a district which is not a gaming enterprise district as defined in NRS 463.0158,]~~ the governing body shall, at least 10 days before the hearing:

(a) Send a notice setting forth the time, place and purpose of the hearing to:

(1) The applicant;

(2) Each owner, as listed on the county assessor's records, of real property located within 1,500 feet of the property in question;

(3) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (2);

(4) Each tenant of a mobile home park located within 1,500 feet of the property in question;

(5) Any advisory board which has been established for the affected area by the governing body; and

(6) If a military installation is located within 3,000 feet of the property in question, the commander of that military installation; and

(b) Erect or cause to be erected on the property, at least one sign not less than 2 feet high and 2 feet wide. The sign must be made of material reasonably calculated to withstand the elements for 40 days. The governing body must be consistent in its use of colors for the background and lettering of the sign. The sign must include the following information:

(1) The existing permitted use and zoning designation of the property in question;

(2) The proposed permitted use of the property in question;

(3) The date, time and place of the public hearing; and

(4) A telephone number which may be used by interested persons to obtain additional information.

8. A sign required pursuant to subsection 7 is for informational purposes only and must be erected regardless of any local ordinance regarding the size, placement or composition of signs to the contrary.

9. A governing body may charge an additional fee for each application for a special use permit to cover the actual costs resulting from the erection of not more than one sign required by subsection 7, if any. The additional fee is not subject to the limitation imposed by NRS 354.5989.

10. The governing body shall remove or cause to be removed any sign required by subsection 7 within 5 days after the final hearing for the application for which the sign was erected. There must be no additional charge to the applicant for such removal.

11. The notice required to be provided pursuant to subsections 3, 4 and 7 must be sent by mail or, if requested by a party to whom notice must be provided pursuant to those subsections, by electronic means if receipt of such an electronic notice can be verified, and must be written in language which is

easy to understand. The notice must set forth the time, place and purpose of the hearing and a physical description or map of the property in question.

12. The provisions of this section do not apply to an application for a conditional use permit filed pursuant to NRS 278.147.

Sec. 13. *NRS 410.270 is hereby amended to read as follows:*

410.270 ~~[1.]~~ "Outdoor advertising," "outdoor advertising sign, display or device" and "sign, display or device" mean any outdoor sign, display, device, light, figure, painting, drawing, message, plaque, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary highway systems.

~~[2. The terms do not include a sign that is required to be erected and maintained in a gaming enterprise district pursuant to NRS 463.3092.]~~

Sec. 14. *NRS 113.080, 278.0147, 463.0158, 463.3072, 463.3074, 463.3076, 463.3078, 463.308, 463.3082, 463.3084, 463.3086, 463.3088, 463.309, 463.3092 and 463.3094 are hereby repealed.*

~~[Sec. 2.]~~ *Sec. 15.* This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

113.080 Additional required disclosures by certain sellers in county whose population is 400,000 or more relating to gaming enterprise districts.

278.0147 "Gaming enterprise district" defined.

463.0158 "Gaming enterprise district" defined.

463.3072 Legislative findings and declarations.

463.3074 Applicability of NRS 463.3072 to 463.3094, inclusive.

463.3076 Location of proposed establishment within Las Vegas Boulevard gaming corridor.

463.3078 Location of proposed establishment within rural Clark County gaming zone.

463.308 Approval of nonrestricted license for establishment located outside of gaming enterprise district prohibited; expansion of establishment located in gaming enterprise district limited; increase in number of games or slot machines at establishment located outside of gaming enterprise district prohibited after certain date.

463.3082 Approval of nonrestricted license for proposed establishment located within Las Vegas Boulevard gaming corridor and rural Clark County gaming zone prohibited unless location designated gaming enterprise district.

463.3084 Gaming enterprise district: Petition for designation of location if within Las Vegas Boulevard gaming corridor or rural Clark County gaming zone; petitioner's burden of proof; hearing; limitation on subsequent petition.

463.3086 Gaming enterprise district: Petition for designation of location if outside of Las Vegas Boulevard gaming corridor and rural Clark County

gaming zone; notice of hearing; hearing; petitioner's burden of proof; limitation on subsequent petition.

463.3088 Gaming enterprise district: Procedure for appealing denial or grant of petition to designate location outside of Las Vegas Boulevard gaming corridor and rural Clark County gaming zone.

463.309 Duty of local government to provide and update map showing location of gaming enterprise districts.

463.3092 Duty of certain persons to erect and maintain sign on property to indicate intent to use, sell or lease for operation of establishment with nonrestricted license; requirements for sign.

463.3094 Description of Las Vegas urban growth zone.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care and Lee.

Conflict of interest declared by Senator Raggio.

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

SENATOR CARE:

Bob Faiss is an adjunct professor at the Boyd School of Law, University of Nevada, Las Vegas. It is his practice to have his class find an issue that pertains to gaming that can be brought forward to the Legislature. Assembly Bill No. 218 was passed by the Assembly without amendment.

The bill states that "an applicant which is a governmental entity or which is owned or controlled by a governmental entity must file such applications for licenses, registrations, findings of suitability or any other approvals as the commission may prescribe." This is a timely thing to do. We are seeing an emergence of what is referred to as sovereign-wealth funds where a pool of investors puts money together in the name of a foreign entity and takes a position in a casino. There is no language in statute that addresses this

There were two other gaming bills introduced this Session. They were inadvertently not scheduled for hearing. I was agreeable to have those two gaming bills entertained as possible amendments to Assembly Bill No. 218. Those bills were Assembly Bill No. 388 and Assembly Bill No. 476. Assembly Bill No. 388 would have given us a definition of sports pool, in sections 2 and 3. It expands the definition of sporting events to include "or other events." That would allow the business of accepting wagers on sporting events by any system or method of wagering not currently done. We had testimony from Chair Neilander who said, "That is fine. You just do not bet on anything." That is still subject to review by the regulators. The remainder of Assembly Bill No. 388 is contained in sections 5, 6 and 7 of Amendment No. 913. This expanded the definition of races to include horse or dog races, which are not held in this State. This allows pari-mutuel betting from out of state through disseminators who would negotiate flat rates through a legislative committee, a committee created by the Legislature 20 years ago for the same rate to be charged to all sports books as opposed to each sports book trying to get its own disseminator by going through the committee. The purpose was to say, if you are going to do this you have to go through this committee and let them negotiate the single rate.

Assembly Bill No. 476 is a bill to rearrange the boundaries of the Gaming Enterprise District. In reviewing the minutes of the 1997 hearings on S.B. 208 of the 69th Legislative Session, I understood that the issue was local planning. City councils, county commissions and their planning commissions should be the ones to determine where a casino should be located rather than having the Legislature determine where all of the districts and all of the lines were supposed to be. Since not all members of the Committee are familiar with the areas in Las Vegas, I requested an amendment.

Amendment No. 913 adds several provisions to Assembly Bill No. 218. First, it expands the statutory definition of sports pool to make this definition consistent with Nevada Gaming

Commission regulations. Second, it clarifies that existing law and pari-mutuel wagering also includes dog races. Third, it provides that an agreement negotiated by the off-track Pari-Mutuel Wagering Committee for Off-Track Wagering must not set a different rate for intrastate wagers that are placed on the licensed premises of a race book and wages placed using communications technology. It eliminates provisions in existing law for the designation of Gaming Enterprise Districts. That does not mean that if we delete the provisions about Gaming Enterprise Districts that a casino may go anywhere. It does not do that. It says that the State is not going to draw the boundaries for these districts. Anyone who wants to create any kind of an establishment still has to go through the local authorities. There is a lengthy process that addresses all of that. That is the purpose and is a local issue best left to the planning commissions, city councils and county commissions.

SENATOR LEE:

I am in opposition to this amendment. This would undo great legislation this body has worked on for years to protect our communities. The Gaming Enterprise Districts work. This stops the proliferation of gaming throughout neighborhoods. I can see this provision being a loser for our communities. What we have works now. Communities have fought to keep this kind of hodge-podge of gaming establishments out of our communities. Seven people on a county commission or city council can be influenced in such a way to override the will of the people of a community. This Legislature worked hard to put something in place that would protect and preserve neighborhoods. I understand the Senator's motives to give control back to the locals, but I do not take that view. The State has done a good job.

SENATOR CARE:

Neighborhoods will still be protected. That is up to the local authorities. Many times, people who make applications for zoning variances are turned down. It is not correct to say that by adopting the amendment that we are putting neighborhoods in danger. We are just getting out of the business that the local governments should be doing.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 130.

Bill read third time.

Remarks by Senators McGinness and Hardy.

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

SENATOR MCGINNESS:

Allowing the sheriff to place a monitor is just allowing someone to sit in a room. I do not think it works that way. The sheriff does not like this bill. I will vote against it.

SENATOR HARDY:

The amendment was an attempt to make the bill better. I am concerned that we are working at one end of the House to try to bring some focus on where these decisions are made and how they are made and by whom they are made. This backtracks on that. I am unable to support the passage of this bill.

Roll call on Assembly Bill No. 130:

YEAS—13.

NAYS—Cegavske, Hardy, McGinness, Raggio, Rhoads, Townsend, Washington—7.

EXCUSED—Coffin.

Assembly Bill No. 130 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that all necessary rules be suspended, that the reprinting of Assembly Bill No. 218 be dispensed with and that the Secretary be authorized to insert the Amendment No. 913 adopted by the Senate, and the bill be placed on the General File for final passage this legislative day.

Motion carried unanimously.

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

Motion carried.

Senate in recess at 7:23 p.m.

SENATE IN SESSION

At 7:24 p.m.

President Krolicki presiding.

Quorum present.

Senator Care moved that the action whereby Assembly Bill No. 218 was amended with Amendment No. 913 be rescinded.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 218.

Bill read third time.

Remarks by Senators Carlton, Hardy, Care and Lee.

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

SENATOR CARLTON:

I rise in opposition to Assembly Bill No. 218 with the amendment that was just put on it by the Chair of Judiciary. My concern with this bill is with the process. I have sworn to uphold the process. This is not the way it works. We have had a lot of discussion in this Chamber about bills leaving this Chamber and fading as they go down the hall. Some bills do not get hearings, but if you look at what just happened in this bill, there was never a bill draft, never public hearing, no testimony, no documentation, no exhibits; no one who was involved in this decision ever had a chance to testify in this House or the other House on whether we should maintain these Gaming Enterprise Zones. I find that to be a violation of the process. We had a debate about this, but we are supposed to let the public in on this debate. That is not what happened here. They never had their chance to testify in front of the committee. I am disappointed that we have gone to this level on this bill. There are different things that could be fixed. It is a passionate issue when you discuss casinos being put on corners near homes. What happened to the process?

SENATOR HARDY:

This is an example of why I oppose limited sessions. We get an amendment. We think we know what is in it, but when we have time to review it, we find it is far more reaching than anticipated. The amendment I supported was not this. There is additional language in this from what I had been told was coming. I will vote in opposition to the bill.

SENATOR CARE:

Assembly Bill No. 218 received a thorough hearing in both Judiciary Committees. Assembly Bill No. 388, which became a part of this amendment and Assembly Bill No. 476, which also became a part of this amendment both received thorough hearings in the Judiciary Committees of both Houses. It is not true to say this did not happen. Assembly Bills Nos. 388 and 476 were not agendized as bills in the Senate Judiciary Committee but they were discussed openly as potential amendments to the bill. I raised the issue of deleting the Gaming Enterprise District. We had that discussion. We had the process.

SENATOR CARLTON:

I may need to be corrected, but the first I heard of this was the whispers I heard about getting rid of the Gaming Enterprise Zone. I have never seen a bill draft or a bill that addressed that issue. Other bills were heard, and the other bills have merit. However, I object to wiping out public policy that was thoroughly debated by just encapsulating it as an amendment. I am not on the Committee. I never had the benefit of the testimony. I did not realize that was a topic that had come up for a discussion. I think it is a big discussion and should have had more than just a few minutes or one hearing on it when we are talking about eliminating a significant public policy issue that affects people in southern Nevada to this degree.

SENATOR HARDY:

I did not mean to insinuate that this was not fully vetted nor that this was being crammed through the process. I meant to say that I did not have a chance to fully absorb the amendment before we took a vote on it. That is not anyone's fault; it is the fault of the deadlines because of the limited session.

SENATOR LEE:

This is a quality-of-life issue. This has to do with the air we breathe. It has to do with the traffic in our neighborhoods. It has to do with quality of life throughout the State where they have these districts. This is something that should have gone to the vote of the people or should have been something that was noted and agendized, and we should have had some input.

We are usurping the will of the people of the areas that have these gaming districts, and we should not go against their will and change this law for the quality of life where we live.

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

Senate in recess at 7:31 p.m.

SENATE IN SESSION

At 7:33 p.m.

President Krolicki presiding.

Quorum present.

The following amendment was proposed by Senator Care:

Amendment No. 918.

"SUMMARY—~~[Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in]~~ *Makes various changes relating to* gaming. (BDR 41-603)"

"AN ACT relating to gaming; authorizing the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming; *revising the definition of "sports pools"; revising the provisions relating to off-track pari-mutuel wagering;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain persons who are involved in gaming are required to be licensed, registered, found suitable or approved by the Nevada Gaming Commission, including, for example, persons who: (1) deal, operate, carry on, conduct, maintain or expose for play in this State any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool; (2) provide or maintain any information service; (3) operate a gaming salon; (4) receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool; (5) furnish any equipment of any gambling game for any interest, percentage or share of the money or property played; or (6) are employees, agents, guardians, personal representatives, lenders or holders of indebtedness of a gaming licensee and who, in the opinion of the Nevada Gaming Commission, have the power to exercise a significant influence over a licensee's operation of a gaming establishment. (NRS 463.160-463.167)

~~[This]~~ *Section 1 of this* bill provides that if an applicant for a license, registration, finding of suitability or any required approval is a governmental entity or is owned or controlled by a governmental entity, the applicant must file such applications for licenses, registrations, findings of suitability or any other approvals as the Nevada Gaming Commission may prescribe.

Existing law defines a "sports pool" as the business of accepting wagers on sporting events by any system or method of wagering. (NRS 463.0193) The regulations of the Nevada Gaming Commission provide that a "sports pool" means a business that accepts wagers on sporting events or other events. (Regulation 22.010 of the Nevada Gaming Commission) Section 3 of this bill amends the statutory definition to include "other events" within the definition of "sports pool" in a manner consistent with the regulations.

Sections 4 and 6 of this bill clarify that, in addition to authorizing off-track pari-mutuel wagering on horse races, existing law also authorizes off-track pari-mutuel wagering on dog races. (NRS 464.005, 466.095)

Existing law authorizes the Commission to appoint an Off-Track Pari-Mutuel Wagering Committee, which, if appointed, has the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering. (NRS 464.020) Section 5 of this bill provides that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An applicant which is a governmental entity or which is owned or controlled by a governmental entity must file such applications for licenses, registrations, findings of suitability or any other approvals as the Commission may prescribe.

2. As used in this section, "governmental entity" means a government or any political subdivision of a government.

Sec. 2. NRS 463.016425 is hereby amended to read as follows:

463.016425 1. "Interactive gaming" means the conduct of gambling games through the use of communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. The term does not include the operation of a race book or sports pool that uses communications technology approved by the Board pursuant to regulations adopted by the Commission to accept wagers originating within this state for races , or sporting events ~~[.]~~ *or other events.*

2. As used in this section, "communications technology" means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including, without limitation, the Internet and intranets.

Sec. 3. NRS 463.0193 is hereby amended to read as follows:

463.0193 "Sports pool" means the business of accepting wagers on sporting events *or other events* by any system or method of wagering.

Sec. 4. NRS 464.005 is hereby amended to read as follows:

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

1. "Gross revenue" means the amount of the commission received by a licensee that is deducted from off-track pari-mutuel wagering, plus breakage and the face amount of unpaid winning tickets that remain unpaid for a period specified by the Nevada Gaming Commission.

2. "Off-track pari-mutuel system" means a computerized system, or component of such a system, that is used with regard to a pari-mutuel pool to transmit information such as amounts wagered, odds and payoffs on races.

3. "Off-track pari-mutuel wagering" means any pari-mutuel system of wagering approved by the Nevada Gaming Commission for the acceptance of wagers on:

(a) ~~[Races]~~ *Horse or dog races* which take place outside of this state; or

(b) Sporting events.

4. "Operator of a system" means a person engaged in providing an off-track pari-mutuel system.

5. "Pari-mutuel system of wagering" means any system whereby wagers with respect to the outcome of a race or sporting event are placed in a

wagering pool conducted by a person licensed or otherwise permitted to do so under state law, and in which the participants are wagering with each other and not against that person. The term includes off-track pari-mutuel wagering.

Sec. 5. *NRS 464.020 is hereby amended to read as follows:*

464.020 1. The Nevada Gaming Commission is charged with the administration of this chapter for the protection of the public and in the public interest.

2. The Nevada Gaming Commission may issue licenses permitting the conduct of the pari-mutuel system of wagering, including off-track pari-mutuel wagering, and may adopt, amend and repeal regulations relating to the conduct of such wagering.

3. The wagering must be conducted only by the licensee at the times determined by the Nevada Gaming Commission and only:

(a) Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or

(b) Within a licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering.

➥ This subsection does not prohibit a person licensed to accept, pursuant to regulations adopted by the Nevada Gaming Commission, off-track pari-mutuel wagers from accepting wagers made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal.

4. The regulations of the Nevada Gaming Commission may include, without limitation:

(a) Requiring fingerprinting of an applicant or licensee, or other method of identification.

(b) Requiring information concerning an applicant's antecedents, habits and character.

(c) Prescribing the method and form of application which any applicant for a license issued pursuant to this chapter must follow and complete before consideration of his application by the Nevada Gaming Commission.

(d) Prescribing the permissible communications technology and requiring the implementation of border control technology that will ensure that a person cannot place a wager with a race book in this State from another state or another location where placing such a wager is illegal.

5. The Nevada Gaming Commission may appoint an Off-Track Pari-Mutuel Wagering Committee consisting of 11 persons who are licensed to engage in off-track pari-mutuel wagering. If the Commission appoints such a Committee, it shall appoint to the Committee:

(a) Five members from a list of nominees provided by the State Association of Gaming Establishments whose members collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the preceding year;

(b) Three members who, in the preceding year, paid gross revenue fees pursuant to NRS 463.370 in an amount that was less than the average amount of gross revenue fees paid by licensees engaged in off-track pari-mutuel wagering in the preceding year; and

(c) Three other members.

➥ If a vacancy occurs in a position on the Committee for any reason, including, but not limited to, termination of a member, the Commission shall appoint a successor member who satisfies the same criteria in paragraph (a), (b) or (c) that applied to the member whose position has been vacated.

6. If the Nevada Gaming Commission appoints an Off-Track Pari-Mutuel Wagering Committee pursuant to subsection 5, the Commission shall:

(a) Grant to the Off-Track Pari-Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering with:

(1) A person who is licensed or otherwise permitted to operate a wagering pool in another state; and

(2) A person who is licensed pursuant to chapter 464 of NRS as an operator of a system.

(b) *Require that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.*

(c) Require the Off-Track Pari-Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off-track pari-mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race pool that the Committee has negotiated to bring into or provide within this State.

7. The Nevada Gaming Commission shall, and it is granted the power to, demand access to and inspect all books and records of any person licensed pursuant to this chapter pertaining to and affecting the subject of the license.

Sec. 6. NRS 466.095 is hereby amended to read as follows:

466.095 The Nevada Gaming Commission shall not issue any license ~~[under this chapter]~~ to conduct dog racing or pari-mutuel wagering in connection with ~~[any dog race.]~~ *dog racing pursuant to this chapter. This section does not prohibit off-track pari-mutuel wagering on dog racing pursuant to chapter 464 of NRS.*

~~[Sec. 2.]~~ *Sec. 7.* This act becomes effective upon passage and approval.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Amodei and Hardy.

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

SENATOR CARE:
This amendment does everything that the prior amendment did except it does not touch Gaming Enterprise Districts. It only addresses the sports pool, pari-mutuel wagering and the Off-track Pari-mutuel Wagering Committee.

SENATOR AMODEI:
This does nothing with respect to any of the bills we considered about proposed changes to Gaming Enterprise Districts within the existing rules already in statute?

SENATOR CARE:
That is correct. It does not disturb the system already in place as to where neighborhood casinos should go or not go.

SENATOR AMODEI:
We heard testimony on changing the districts within the existing statutes. None of the changes were included in this in terms of expanding on a piece of Las Vegas Boulevard or in other directions? None of those changes are in this? It is existing as it is at present?

SENATOR CARE:
That is true, no changes. There will be no further amendments offered that will touch on that subject.

SENATOR HARDY:
What does the amendment do?

SENATOR CARE:
It does everything I described in Amendment No. 913 as to the definition of other events, sport events and pari-mutuel betting. That does not change.

Amendment adopted.

The following amendment was proposed by Senators Copening and Carlton:

Amendment No. 933.

"SUMMARY—~~[Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in]~~ *Makes various changes relating to* gaming. (BDR 41-603)"

"AN ACT relating to gaming; authorizing the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming; *revising the boundaries of the Las Vegas Boulevard gaming corridor;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain persons who are involved in gaming are required to be licensed, registered, found suitable or approved by the Nevada Gaming Commission, including, for example, persons who: (1) deal, operate, carry on, conduct, maintain or expose for play in this State any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool; (2) provide or maintain any information service; (3) operate a gaming salon; (4) receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool; (5) furnish any equipment of any gambling game for any interest, percentage

or share of the money or property played; or (6) are employees, agents, guardians, personal representatives, lenders or holders of indebtedness of a gaming licensee and who, in the opinion of the Nevada Gaming Commission, have the power to exercise a significant influence over a licensee's operation of a gaming establishment. (NRS 463.160-463.167)

~~[This]~~ *Section 1 of this* bill provides that if an applicant for a license, registration, finding of suitability or any required approval is a governmental entity or is owned or controlled by a governmental entity, the applicant must file such applications for licenses, registrations, findings of suitability or any other approvals as the Nevada Gaming Commission may prescribe.

Existing law provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 400,000 or more (currently Clark County) unless the establishment is located in a gaming enterprise district, which is defined as "an area that has been approved by a county, city or town as suitable for operating an establishment that has been issued a nonrestricted license." (NRS 463.0158, 463.308) If the location of a proposed establishment is within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone, but not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3084. (NRS 463.3082) However, if the location of a proposed establishment is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone and not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3086, which contains certain additional requirements that are not contained in NRS 463.3084, such as the requirements that: (1) the property line of the proposed establishment must be not less than 500 feet from the property line of a developed residential district and not less than 1,500 feet from the property line of a public school, private school or structure used primarily for religious services or worship; and (2) a three-fourths vote of the governing body of the county, city or town is required for designation of the location as a gaming enterprise district. (NRS 463.3086)

Section 1.5 of this bill revises the boundaries of the Las Vegas Boulevard gaming corridor to include certain new areas. Consequently, if a proposed establishment which is located in a new area of the Las Vegas Boulevard gaming corridor and which is not already in a gaming enterprise district were to seek to have the location designated as a gaming enterprise district, the determination of whether the location may be designated as a gaming

enterprise district would be based upon the criteria set forth in NRS 63.3084, rather than the criteria set forth in NRS 463.3086.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An applicant which is a governmental entity or which is owned or controlled by a governmental entity must file such applications for licenses, registrations, findings of suitability or any other approvals as the Commission may prescribe.

2. As used in this section, "governmental entity" means a government or any political subdivision of a government.

Sec. 1.5. NRS 463.3076 is hereby amended to read as follows:

463.3076 The location of a proposed establishment shall be deemed to be within the Las Vegas Boulevard gaming corridor if the property line of the proposed establishment ~~[:]~~ *is located within any of the following areas:*

1. ~~[Is within 1,500 feet of the centerline of Las Vegas Boulevard;~~

~~2. Is south of the intersection of Las Vegas Boulevard and that portion of St. Louis Avenue which is designated State Highway No. 605; and~~

~~3. Is adjacent to or north of the northern edge line of State Highway No. 146.]~~ *The area beginning at the point of the northern edge line of State Highway No. 146 that is 1,500 feet west of the centerline of Las Vegas Boulevard, then proceeding north to the northern edge line of Tropicana Avenue, then proceeding west to the eastern edge line of Interstate 15, then proceeding north to the eastern edge line of Industrial Road, then proceeding north to the southern edge line of New York Avenue, then proceeding east to the intersection of the extension of the southern edge line of New York Avenue and the western edge line of Main Street, then proceeding south to the southern edge line of St. Louis Avenue, then proceeding east to the western edge line of Santa Rita Drive, then proceeding south along a line that is 1,500 feet east of the centerline of Las Vegas Boulevard to the western edge line of Paradise Road, then proceeding south to the southern edge line of Sands Avenue, then proceeding west to a point that is 1,500 feet east of the centerline of Las Vegas Boulevard, then proceeding south along a line that is 1,500 feet from the centerline of Las Vegas Boulevard to the northern edge line of State Highway No. 146, then proceeding west to the point of beginning.*

2. The area beginning at the intersection of the western edge line of Las Vegas Boulevard and the extension of the northern edge line of Lewis Avenue, then proceeding north to the southern edge line of Stewart Avenue, then proceeding west to the eastern edge line of Casino Center Boulevard, then proceeding north to the southern edge line of United States Highway No. 95, then proceeding west to the western edge line of the Union Pacific Railroad Right-of-Way, then proceeding south to a point that is

perpendicular to the extension of the northern edge line of Lewis Avenue, then proceeding east to the point of beginning.

Sec. 2. This act becomes effective upon passage and approval.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton, Care, Hardy and Lee.

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

SENATOR CARLTON:

This amendment was referred to earlier as having been testified to in the Senate Judiciary Committee. It was Assembly Bill No. 476 before becoming an amendment. This amendment deals with construction, renovation and expansion of resort hotels and casinos in areas where they are currently concentrated along the Las Vegas Strip and in downtown Las Vegas. There is the Gaming Enterprise Zone, and there are a few sections around the edges that have been proposed to be added to that Zone. When you look at the history of those who were involved in Assembly Bill No. 476, they are usually not all sitting at the table together. That is what piqued my curiosity. They have had a turbulent past, and now, they are together saying that this would be a good bill. They say they can work with the slight adjustment within the Gaming Enterprise Zone. I encourage passage of Amendment No. 933.

SENATOR CARE:

This highlights the reason why I think these matters are best left to local planning commissions, county commissions and city councils. If the State is going to be involved as to where these lines will go, then, this amendment will redraw the lines of the Gaming Enterprise District. Is there anyone who wanted to be in the redrawn Gaming Enterprise District who was excluded?

SENATOR CARLTON:

Yes, there was one component, and there is an amendment out there that addresses that person's interest. They were the only one who did not become part of the group. The Gaming Enterprise Zone is the red line, and they proposed changes within a small outlined yellow line. There was one other group who asked to have a small section that was not contiguous to any of the other Gaming Enterprise Zone. It was in the center, surrounded. A number of groups did not agree with that change. The other groups came together to propose this amendment. This bill passed through the Assembly 40-1 in favor.

SENATOR HARDY:

There have been three or four amendments on this. We talk to people in the halls about this, and it is easy to get them confused. I do not know how I feel about Gaming Enterprise Districts. I have never participated in a discussion to hear the pros and cons of it. While the decisions are primarily made by the local governments, we do not give them the opportunity to adjust the lines. That is something we need to do. The adjusting at the request of individuals who are seeking to grow their enterprises or to provide additional jobs is a reasonable request. In the future, I would be willing to discuss the elimination of these districts. The request to reasonably adjust these, from time to time, is a reasonable one. We need to be responsive to that because this is one of our primary industries in this State. We need to be open to their needs.

SENATOR LEE:

We are seeing gaming creep. It will keep creeping out into the communities. I am afraid we will all have an address on a street that will have a casino on it. I do not support this amendment. Let us keep the situation the way it is now. We should come back in two years and have input from the people who live around these areas. Then, we can have a full hearing on this. We do not want people moving to the outskirts leaving us with a blighted downtown. We do not want a monopoly in an area that takes and takes. I am trying to control the gaming creep into the communities.

SENATOR CARLTON:

I had some of those same concerns myself. The documentation I received explained to me that the proposed expansion is located in the heart of existing tourist corridors. They are located entirely within areas that are master planned for resorts and casinos. They are almost exclusively developed with resorts, casinos and related uses. They contain no single-family homes. Our historic neighborhoods in downtown would be protected. This is where the casinos belong. There are a few small areas they would like to add to it.

SENATOR HARDY:

We are talking about the creep of an industry that is important to this State. We ought to be mindful of the needs of an industry that has helped us to fill a gap in our budget and has helped us to fund a budget.

Amendment adopted.

The following amendment was proposed by Senator Care:

Amendment No. 931.

"SUMMARY— ~~[Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in]~~ *Makes various changes relating to* gaming. (BDR 41-603)"

"AN ACT relating to gaming; authorizing the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming; *revising the boundaries of the Las Vegas Boulevard gaming corridor;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain persons who are involved in gaming are required to be licensed, registered, found suitable or approved by the Nevada Gaming Commission, including, for example, persons who: (1) deal, operate, carry on, conduct, maintain or expose for play in this State any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool; (2) provide or maintain any information service; (3) operate a gaming salon; (4) receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool; (5) furnish any equipment of any gambling game for any interest, percentage or share of the money or property played; or (6) are employees, agents, guardians, personal representatives, lenders or holders of indebtedness of a gaming licensee and who, in the opinion of the Nevada Gaming Commission, have the power to exercise a significant influence over a licensee's operation of a gaming establishment. (NRS 463.160-463.167)

~~[This]~~ *Section 1 of this* bill provides that if an applicant for a license, registration, finding of suitability or any required approval is a governmental entity or is owned or controlled by a governmental entity, the applicant must file such applications for licenses, registrations, findings of suitability or any other approvals as the Nevada Gaming Commission may prescribe.

Existing law provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 400,000 or more (currently Clark County) unless the

establishment is located in a gaming enterprise district, which is defined as "an area that has been approved by a county, city or town as suitable for operating an establishment that has been issued a nonrestricted license." (NRS 463.0158, 463.308) If the location of a proposed establishment is within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone, but not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3084. (NRS 463.3082) However, if the location of a proposed establishment is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone and not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3086, which contains certain additional requirements that are not contained in NRS 463.3084, such as the requirements that: (1) the property line of the proposed establishment must be not less than 500 feet from the property line of a developed residential district and not less than 1,500 feet from the property line of a public school, private school or structure used primarily for religious services or worship; and (2) a three-fourths vote of the governing body of the county, city or town is required for designation of the location as a gaming enterprise district. (NRS 463.3086)

Section 1.5 of this bill revises the boundaries of the Las Vegas Boulevard gaming corridor to include certain new areas. Consequently, if a proposed establishment which is located in a new area of the Las Vegas Boulevard gaming corridor and which is not already in a gaming enterprise district were to seek to have the location designated as a gaming enterprise district, the determination of whether the location may be designated as a gaming enterprise district would be based upon the criteria set forth in NRS 463.3084, rather than the criteria set forth in NRS 463.3086.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An applicant which is a governmental entity or which is owned or controlled by a governmental entity must file such applications for licenses, registrations, findings of suitability or any other approvals as the Commission may prescribe.

2. As used in this section, "governmental entity" means a government or any political subdivision of a government.

Sec. 1.5. NRS 463.3076 is hereby amended to read as follows:

463.3076 The location of a proposed establishment shall be deemed to be within the Las Vegas Boulevard gaming corridor if the property line of the proposed establishment ~~[:]~~ *is located within any of the following areas:*

1. ~~[Is within]~~ *The area:*

(a) Within 1,500 feet of the centerline of Las Vegas Boulevard;

~~[2. Is south]~~

(b) South of the intersection of Las Vegas Boulevard and that portion of St. Louis Avenue which is designated State Highway No. 605; and

~~[3. Is adjacent]~~

(c) Adjacent to or north of the northern edge line of State Highway No. 146.

2. The area beginning at the intersection of the western edge line of Main Street and Wyoming Avenue, then proceeding west to the eastern edge line of the Union Pacific Railroad Right-of-Way, then proceeding north to the southern edge line of Charleston Boulevard, then proceeding east to the western edge line of Main Street, then proceeding south to the point of origin.

3. The area beginning at the intersection of the eastern edge line of Las Vegas Boulevard and the northern edge line of Oakey Boulevard, then proceeding north to the southern edge line of Charleston Boulevard, then proceeding east to a point that is 550 feet east of the eastern edge line of Las Vegas Boulevard, then proceeding south along a line that is 550 feet east of the eastern edge line of Las Vegas Boulevard to the northern edge line of Oakey Boulevard, then proceeding west to the point of origin.

Sec. 2. This act becomes effective upon passage and approval.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Carlton and Nolan.

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

SENATOR CARE:

This amendment concerns the additional expansion of the Gaming Enterprise District or redrawing of the lines. This concerns the party earlier referred to who was left out of the negotiations for the previous amendment.

The amendment adds two areas north of the Gaming Enterprise District along Las Vegas Boulevard. The areas are generally described as the areas bounded by Wyoming Avenue to the south, Charleston Boulevard to the north, the Union Pacific right-of-way on the west, Main Street on the east, and the strip of land 550 feet wide that is parallel and adjacent to the east side of Las Vegas Boulevard bounded by Oakey Boulevard on the south and Charleston Boulevard on the north. It is a slight sliver of an area and definitely less than "gaming creep."

SENATOR CARLTON:

I apologize, but I do have to rise in opposition to this amendment. The issues that made me comfortable with the other amendments are not in this amendment. It is not contiguous to the corridor or to the Gaming Enterprise District. There are single-family homes near there. It is not a master-planned development. This is "gaming creep" actually hopping around the communities. I oppose this amendment.

SENATOR NOLAN:

I have seen a number of different maps relating to this issue. This area being discussed borders Las Vegas Boulevard and Charleston Boulevard, and it then butts up against Wyoming Avenue, which is predominantly an old, industrial district that borders the railroad tracks. I do not recall any housing being in that area. This is one block removed from the district they discussed previously, sitting on Las Vegas Boulevard, which is the Strip. This is in the middle of the gaming district between what is being proposed and the downtown area.

Motion carried on a division of the house.

Amendments adopted.

Senator Care moved that all necessary rules be suspended, that the reprinting of Assembly Bill No. 218 be dispensed with and that the Secretary be authorized to insert Amendment Nos. 918, 933, 931 adopted by the Senate, and the bill be immediately placed on the General File for final passage.

Motion carried unanimously.

Assembly Bill No. 218.

Bill read third time.

Conflict of interest declared by Senator Raggio.

Roll call on Assembly Bill No. 218:

YEAS—17.

NAYS—Lee, Mathews—2.

NOT VOTING—Raggio.

EXCUSED—Coffin.

Assembly Bill No. 218 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

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

Remarks by Senator Washington.

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

Senate Joint Resolution No. 10 is about the repeal of term limits. This bill has great importance to this body and to this process.

I have had the opportunity to serve in this body for 16 years. I have grown to appreciate the joyful and serious moments experienced in this Chamber. There have been intense moments and witty moments. I have watched those who craft legislation on behalf of their constituents and for the betterment of this State.

Term limits came about to remove legislators who some felt were not doing their job or who had stayed in the legislative body for too long. The movement started on the national level and spread. Speaker Willie Brown of California was a target by those who thought he had too much power. People who thought it was a good idea did not understand the process.

We had a constitutional amendment to pay legislators for their 120 days of service. Some people think we make a lot of money and that we get rich off what we make. Little do they know that we are paid for only 60 days. With the lack of understanding and their ignorance of the process, the people failed to pass the voter initiative that would allow the LEGISLATORS to be paid for the 120 days that they work.

Several years ago the term limits petition was placed on the ballot. The men and women, who serve here, do so at their own peril. They make great sacrifices. They sacrifice their family time;

they leave their jobs, and suffer often from sleep deprivation. They do what they feel is best for the citizens of this State. Because term limits are now part of the Constitution, we will lose the great Legislators we have here in this body. We will lose Senator Amodei who has great wit. We will lose Senator McGinness who has a quiet stillness about him. We will lose the fiery Senator Carlton and the jovial Senator Schneider. We will lose Senator Mathews with her motherly wit. We will lose Senator Care with his lawyer logic. We will lose Senator Townsend, debonair, dashing and smooth. We will lose Senator Wiener who always reminds us that health is first and foremost, after her cats. Who can forget Senator Cegavske who is never wrong and will prove to you why she is right. We will lose the rural savvy and rustic attitude of Senator Rhoads. And, finally, we will miss the longevity and the great institution of the man who is stern and whose reasoning is sound. I have greatly admired this man over the years. I first met Senator Raggio when I was in my late 20s. I went to the First Interstate Bank on Virginia Street and met Senator Raggio at his office when I was selling office products. I remember his name from the burning of the Mustang Ranch during his years as District Attorney. I thought when I first met him; this is a man of distinction.

Term limits have set in, and we will lose the likes of these great people who have served in this body, not because the voters decided that it is time for them to go but because we have enacted an amendment to our Constitution that has turned them out. This amendment does not allow the growth of those who will serve in this body. It takes time to learn, to engage and to watch the process to hone your skills to a point where you can become a chair of a committee and a Majority Leader. I remember our Majority Leader when he was in the Senate at the University of Nevada, Reno.

Some would say that the repeal of the constitutional amendment would be self-serving. I do not think it is self-serving because those of us who are affected will not be back in the next four years. We have great stars coming up. Senator Breeden and Senator Copening are learning this process and are gaining great knowledge. They will be great leaders in this process. We look forward to seeing what they can do in the future.

Let us allow Senate Joint Resolution No. 10 to go through the process twice before it goes to the voters. This would give the voters a second chance to look at this measure, for we may not find men and women again who will serve this body as these Legislators have and will never again have Legislators with the longevity we see here today.

Motion carried on a division of the house.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 60.

. The following Assembly amendment was read:

Amendment No. 704.

"SUMMARY—Revises provisions governing buildings and other property that has been used in crimes involving methamphetamine or certain other substances. (BDR 40-542)"

"AN ACT relating to public health; requiring the district board of health in certain counties and the State Board of Health in all other counties to evaluate the removal and remediation of methamphetamine and certain other substances; requiring the adoption of certain regulations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog which has not been deemed safe for habitation by a governmental entity or 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 is a public nuisance. (NRS 40.140, 202.450) ~~[Existing law authorizes cities and counties of this State to adopt ordinances pursuant to which the district attorney may file an action seeking: (1) the abatement of a nuisance; (2) the closure of the property where the nuisance is located or occurring; and (3) penalties against the owner of the property. (NRS 244.3603, 268.4124)]~~ Sections 2 and 4 ~~[-6]~~ of this bill provide that the district board of health in a county whose population is 400,000 or more (currently Clark County) or the State Board of Health in all other counties is the governmental entity responsible for determining that the building or place is safe for habitation. ~~[Section 5 authorizes the board of county commissioners, in consultation with the district board of health or State Board of Health, as applicable, to adopt ordinances to protect the public health, safety and welfare for the incorporated areas of the county.]~~

Existing law provides that in any sale, lease or rental of real property, the fact that the property is or has been the site of a crime that involves any quantity of methamphetamine must be disclosed to the buyer, lessee or tenant unless: (1) all materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or (2) the property has been deemed safe for habitation by a governmental entity. (NRS 40.770) Existing law requires similar disclosures to a transferee of a manufactured home, mobile home or commercial coach that is or has been the site of a crime that involves any quantity of methamphetamine. (NRS 489.776) Sections 3 and 9 of this bill provide that the district board of health in a county whose population is 400,000 or more or the State Board of Health in all other counties is the governmental entity responsible for determining that the property is safe for habitation.

Section 1 of this bill requires a district board of health and the State Board of Health to evaluate the removal or remediation of substances involving a controlled substance, immediate precursor or controlled substance analog and any material, compound, mixture or preparation that contains any quantity of methamphetamine. Section 1 further requires the State Environmental Commission to adopt regulations: (1) concerning the monitoring of the removal or remediation of such substances; and (2) establishing standards pursuant to which a property, building or place may be deemed safe for habitation.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of health or its agent shall, for the purposes of NRS 40.140, 40.770, 202.450 ~~[, 244.3603, 268.4124]~~ and 489.776, evaluate the removal or remediation by any entity certified or licensed to do so of:

(a) Substances involving a controlled substance, immediate precursor or controlled substance analog; and

(b) Any material, compound, mixture or preparation that contains any quantity of methamphetamine.

2. The State Environmental Commission shall adopt regulations:

(a) To carry out the provisions of subsection 1;

(b) Establishing standards pursuant to which a building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog may be deemed safe for habitation for the purposes of NRS 40.140 ~~[,]~~ and 202.450 ~~; [, 244.3603 and 268.4124;]~~ and

(c) Establishing standards pursuant to which any property that is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation that contains any quantity of methamphetamine may be deemed safe for habitation for the purposes of NRS 40.770 and 489.776.

3. As used in this section:

(a) "Board of health" means:

(1) In a county whose population is 400,000 or more, the district board of health; or

(2) In a county whose population is less than 400,000, the State Board of Health.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

Sec. 2. 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;]~~ *the board of health;* 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,

➥ 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) *"Board of health" has the meaning ascribed to it in section 1 of this act.*

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~[(b)]~~ *(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. 3. NRS 40.770 is hereby amended to read as follows:

40.770 1. Except as otherwise provided in subsection 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property,

➥ is not material to the transaction.

2. In any sale, lease or rental of real property, the fact that a sex offender, as defined in NRS 179D.095, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS is located near the property being sold, leased or rented is not material to the transaction.

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and his agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by ~~[a governmental entity.]~~ *the board of health.*

7. As used in this section ~~[, "facility]~~ *:*

(a) "Board of health" has the meaning ascribed to it in section 1 of this act.

(b) "Facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

Sec. 4. 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) 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]~~ *the board of health* 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) *"Board of health" has the meaning ascribed to it in section 1 of this act.*

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~[(b)]~~ *(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. 5. ~~[NRS 244.3603 is hereby amended to read as follows:~~

~~244.3603 1. Each board of county commissioners , *in consultation with the board of health*, 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 *or an attorney appointed by the board of county commissioners* may file an action in a court of competent jurisdiction to:~~

~~(a) Seek the abatement of a chronic nuisance that is located or occurring within the *incorporated or* unincorporated area of the county;~~

~~(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and~~

~~(c) If applicable, seek penalties against the owner of the property within the *incorporated or* unincorporated area of the county and any other appropriate relief [.] , *including, without limitation, placing a lien on the property.*~~

~~2. An ordinance adopted pursuant to subsection 1 must:~~

~~(a) Contain procedures pursuant to which the owner of the property is:~~

~~(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on his property of nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and~~

~~(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.~~

~~(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.~~

~~(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.~~

~~3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:~~

~~(a) Impose a civil penalty of not more than $500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;~~

~~(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and~~

~~(c) Order any other appropriate relief.~~

~~4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may make the expense a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.~~

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

~~(a) *"Board of health" has the meaning ascribed to it in section 1 of this act.*~~

~~*(b)* A "chronic nuisance" exists:~~

~~(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property.~~

~~(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property.~~

~~(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.~~

~~(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.~~

~~(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:~~

~~(I) The building or place has not been deemed safe for habitation by [a governmental entity;] *the board of health;* or~~

~~(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been 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.~~

[(b)] *(c)* "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

[(c)] *(d)* "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

[(d)] *(e)* "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;

(4) Excessive noise and violations of curfew; or

(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

[(e)] *(f)* "Person associated with the property" means:

(1) The owner of the property;

(2) The manager or assistant manager of the property;

(3) The tenant of the property; or

(4) A person who, on the occasion of a nuisance activity, has:

(I) Entered, patronized or visited;

(II) Attempted to enter, patronize or visit; or

(III) Waited to enter, patronize or visit,

the property or a person present on the property.] *(Deleted by amendment.)*

Sec. 6. [NRS 268.4124 is hereby amended to read as follows:

268.4124 1. [The] *To the extent consistent with an ordinance adopted pursuant to NRS 244.3603, the* 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 an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on his property of two or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

~~(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.~~

~~(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.~~

~~3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:~~

~~(a) Impose a civil penalty of not more than $500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;~~

~~(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;~~

~~(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and~~

~~(d) Order any other appropriate relief.~~

~~4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the governing body may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.~~

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

~~(a) *"Board of health" has the meaning ascribed to it in section 1 of this act.*~~

~~*(b)* A "chronic nuisance" exists:~~

~~(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property.~~

~~(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property.~~

~~(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.~~

~~(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.~~

~~(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:~~

~~(I) The building or place has not been deemed safe for habitation by [a governmental entity;]~~ *~~the board of health~~*~~; or~~

~~(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been 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.~~

~~[(b)]~~ *~~(c)~~* ~~"Controlled substance analog" has the meaning ascribed to it in NRS 453.043.~~

~~[(c)]~~ *~~(d)~~* ~~"Immediate precursor" has the meaning ascribed to it in NRS 453.086.~~

~~[(d)]~~ *~~(e)~~* ~~"Nuisance activity" means:~~

~~(1) Criminal activity;~~

~~(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;~~

~~(3) Excessive noise and violations of curfew; or~~

~~(4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.~~

~~[(e)]~~ *~~(f)~~* ~~"Person associated with the property" means a person who, on the occasion of a nuisance activity, has:~~

~~(1) Entered, patronized or visited;~~

~~(2) Attempted to enter, patronize or visit; or~~

~~(3) Waited to enter, patronize or visit,~~

~~a property or a person present on the property.]~~ *(Deleted by amendment.)*

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 489.776 is hereby amended to read as follows:

489.776 1. Except as otherwise provided in this section and unless required to make a disclosure pursuant to NRS 40.770, if a manufactured home, mobile home or commercial coach is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine, a transferor or his agent who has actual knowledge of such information shall disclose the information to a transferee or his agent.

2. The disclosure described in subsection 1 is not required if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the manufactured home, mobile home or commercial coach by an entity certified or licensed to do so; or

(b) The manufactured home, mobile home or commercial coach has been deemed safe for habitation by ~~[a governmental entity.]~~ *the board of health.*

3. The disclosure described in subsection 1 is not required for any sale or other transfer or intended sale or other transfer of a manufactured home, mobile home or commercial coach by a transferor:

(a) To any co-owner of the manufactured home, mobile home or commercial coach, the spouse of the transferor or a person related within the third degree of consanguinity *or affinity* to the transferor; or

(b) If the transferor is a dealer and this is the first sale or transfer of a new manufactured home, mobile home or commercial coach.

4. The Division may adopt regulations to carry out the provisions of this section.

5. As used in this section, "board of health" has the meaning ascribed to it in section 1 of this act.

Sec. 10. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2009, for all other purposes.

Senator Mathews moved that the Senate concur in the Assembly amendment to Senate Bill No. 60.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 108.

The following Assembly amendment was read:

Amendment No. 862.

"SUMMARY—Revises provisions governing the placement of markers on lode mining claims. (BDR 46-498)"

"AN ACT relating to mining claims; providing that a hollow metal post which is used as a valid legal monument to mark the boundaries of a lode mining claim must meet certain requirements; requiring the replacement of durable plastic pipe on lode mining claims; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the use of hollow metal posts and durable plastic pipe to define the boundaries of a lode mining claim if the post or pipe is securely capped with no open perforations. (NRS 517.030) This bill provides that a hollow metal post which is used to mark the boundaries of a lode mining claim must be securely capped or crimped in a manner that securely closes the top of the post and have no open perforations. This bill also provides that any durable plastic pipe used to mark a claim must be replaced on or before November 1, 2011. *If replaced on or before that date, the durable plastic pipe must be taken from the lode mining claim and disposed of in a lawful manner.* After that date, any such durable plastic pipe may be removed and placed adjacent to the location from which it is removed.

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

Section 1. NRS 517.030 is hereby amended to read as follows:

517.030 1. Within 60 days after posting the notice of location, the locator of a lode mining claim shall distinctly define the boundaries of the

claim by placing a valid legal monument at each corner of the claim. A valid legal monument may be created by:

(a) ~~[Removing the top of]~~ *Blazing and marking* a tree, which has a diameter of not less than 4 inches, not less than 3 feet above the ground *;* ~~[,~~ ~~and blazing and marking it;]~~

(b) Capping a rock in place with smaller stones so that the rock and stones have a height of not less than 3 feet; or

(c) Setting a wooden or metal post or a stone.

2. If a wooden post is used, the dimensions of the post must be at least 1 1/2 inches by 1 1/2 inches by 4 feet, and the post must be set 1 foot in the ground.

3. If a metal post is used, the post must be at least 2 inches in diameter by 4 feet in length ~~[,]~~ and ~~[it must]~~ be set 1 foot in the ground. If the metal post is hollow, it must ~~[be]~~ *:*

(a) Be securely capped ~~[.]~~ *or crimped in a manner that securely closes the top of the post; and*

(b) Have no open perforations.

4. If it is practically impossible, because of bedrock or precipitous ground, to sink a post, it may be placed in a mound of earth or stones. If the proper placing of a monument is impracticable or dangerous to life or limb, the monument may be placed at the nearest point properly marked to designate its right place.

5. If a stone is used which is not a rock in place, the stone must be not less than 6 inches in diameter and 18 inches in length ~~[,]~~ and ~~[it must]~~ be set with two-thirds of its length in the top of a mound of earth or stone 3 feet in diameter and 2 1/2 feet in height.

6. ~~[Durable]~~ *Except as otherwise provided in subsection 7, a durable* plastic pipe that was set before March 16, 1993, for the purpose of defining the boundaries of a lode mining claim shall be deemed to constitute a valid legal monument if:

(a) The pipe is at least 3 inches in diameter by 4 feet in length ~~[,]~~ and ~~[the pipe]~~ is set 1 foot in the ground; and

(b) The pipe is securely capped with no open perforations.

7. The locator of a lode mining claim located before March 16, 1993, *the boundaries of which are defined by a durable plastic pipe described in subsection 6,* or his successor in interest, ~~[may]~~ *shall, on or before November 1, 2011,* remove the durable plastic pipe ~~[described in subsection 6]~~ and replace the monument of location and the corner monuments with valid legal monuments in the manner prescribed pursuant to subsection 1. ~~[The]~~ *If the* locator or his successor in interest ~~[is not required to replace a monument located at the center of a side line. Within]~~ *replaces the durable plastic pipe on or before that date, the locator or his successor in interest shall, within* 60 days after the replacement, ~~[the locator of the lode mining claim, or his successor in interest, shall]~~ record a notice of remonumentation with the

county recorder of the county in which the claim is located and pay the fee required by NRS 247.305. The notice must contain:

(a) The name of the claim;

(b) The book and page number or the document number of the certificate of location or the most recent amendment to the certificate of location;

(c) The book and page number or the document number of the map filed pursuant to NRS 517.040; and

(d) A description of the monument used to replace each monument that is removed.

➥ The notice may include more than one claim. *Any durable plastic pipe that is removed pursuant to this subsection must be taken from the lode mining claim and disposed of in a lawful manner.*

8. *After November 1, 2011, any durable plastic pipe that is not removed pursuant to subsection 7 may be removed and placed on the ground immediately adjacent to the location from which it is removed to preserve evidence of its use as a monument for the lode mining claim.*

9. The replacement of *a* durable plastic pipe or the recording of a notice pursuant to subsection 7 does not:

(a) Amend or otherwise affect the legal validity of the claim for which the monuments were created;

(b) Modify the date of location of the claim; or

(c) Require the filing of an additional or amended map pursuant to NRS 517.040.

Sec. 2. This act becomes effective on July 1, 2009.

Senator Parks moved that the Senate concur in the Assembly amendment to Senate Bill No. 108.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 137.

The following Assembly amendments were read:

Amendment No. 706.

"SUMMARY—Provides for the placement of recycling containers in certain locations. (BDR 40-741)"

"AN ACT relating to recycling; providing for the placement of recycling containers on the premises of certain apartment complexes, condominiums and the Nevada System of Higher Education and its branches and facilities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the ~~[State Environmental Commission is required to adopt regulations establishing minimum standards relating to the recycling of recyclable material. (NRS 444A.020) Existing law also provides for the establishment of recycling programs that do not conflict with those standards in counties and municipalities in this State. (NRS 444A.040) Section 5 of this bill requires the Commission to adopt regulations establishing minimum~~

~~standards for the placement of recycling containers on the premises of apartment complexes and condominiums where services for the collection of solid waste are provided.]~~ *board of county commissioners in a county whose population is 100,000 or more (currently Clark and Washoe Counties) is required to make available for use in that county a program for separating recyclable material from other solid waste originating from certain residential premises and public buildings. Existing law authorizes certain other counties and municipalities to provide such a program. (NRS 444A.040)* Section 7 of this bill provides for the inclusion of provisions concerning ~~[such]~~ *the placement of* recycling containers *on the premises of apartment complexes and condominiums* in the recycling programs of *those* counties and municipalities.

Existing law authorizes each board of county commissioners in this State to regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county. (NRS 244.3675) Existing law confers similar authority upon the governing body of an incorporated city in this State. (NRS 268.413) Section 11 of this bill prohibits a board of county commissioners of a county or a governing body of a city from approving, on or after October 1, 2009, any plan or revised plan for *the construction or major renovation of* an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

Existing law requires the Board of Regents of the University of Nevada to prescribe procedures for the recycling of paper and paper products used by the Nevada System of Higher Education and requires the Board of Regents to pay any money received by the System for recycling those products to the State Treasurer for credit to the State General Fund. (NRS 396.437) Section 14 of this bill requires the Board to prescribe procedures for the recycling of other waste materials, including, without limitation, the placement of recycling containers on the premises of the System or any of its branches or facilities where services for the collection of solid waste are provided. Section 14 also requires the money received by the System for recycling those materials to be accounted for separately and used to carry out the provisions of that section.

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

Section 1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Apartment complex" means a building or group of buildings, each building of which is arranged in several units of connecting rooms, with each unit designed for independent housekeeping.*

Sec. 3. *"Condominium" has the meaning ascribed to it in NRS 117.010.*

Sec. 4. NRS 444A.010 is hereby amended to read as follows:

444A.010 As used in NRS 444A.010 to 444A.080, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms described in NRS 444A.011 to 444A.017, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 5. ~~[NRS 444A.020 is hereby amended to read as follows:~~

~~444A.020 1. The State Environmental Commission shall adopt regulations establishing minimum standards for:~~

~~(a) Separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided [.] , *including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*~~

~~(b) Establishing recycling centers for the collection and disposal of recyclable material.~~

~~(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.~~

~~2. The regulations adopted pursuant to subsection 1 must be adopted with the goal of recycling at least 25 percent of the total solid waste generated within a municipality after the second full year following the adoption of [such] *those* standards.~~

~~3. The State Environmental Commission shall, by regulation, establish acceptable methods for disposing of used or waste tires.]~~ *(Deleted by amendment.)*

Sec. 6. ~~[NRS 444A.030 is hereby amended to read as follows:~~

~~444A.030 1. The Division of Environmental Protection of the [State] Department [of Conservation and Natural Resources] shall, by regulation, adopt a model plan for:~~

~~(a) Separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided [.] , *including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*~~

~~(b) Establishing recycling centers for the collection and disposal of recyclable material in areas where there are no centers.~~

~~(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.~~

~~(d) The disposal of infectious waste, hazardous waste which is not regulated pursuant to NRS 459.485 and liquid waste which is not regulated pursuant to NRS 445A.300 to 445A.730, inclusive.~~

~~2. The model plans adopted pursuant to subsection 1 must not conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020.]~~ *(Deleted by amendment.)*

Sec. 7. NRS 444A.040 is hereby amended to read as follows:

444A.040 1. The board of county commissioners in a county whose population is 100,000 or more, or its designee, shall make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~[the]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ *, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

(d) The encouragement of businesses to reduce solid waste and to separate at the source recyclable material from other solid waste. This program must, without limitation, make information regarding solid waste reduction and recycling opportunities available to a business at the time the business applies for or renews a business license.

2. The board of county commissioners of a county whose population is 40,000 or more but less than 100,000, or its designee:

(a) May make available for use in that county a program for the separation at the source of recyclable material from other solid waste originating from ~~[the]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ *, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) Shall make available for use in that county a program for:

(1) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program established pursuant to paragraph (a).

(2) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

3. The board of county commissioners of a county whose population is less than 40,000, or its designee, may make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~[the]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ *, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

4. Any program made available pursuant to this section:

(a) Must not:

(1) Conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020; and

(2) Become effective until approved by the Department.

(b) May be based on the model plans adopted pursuant to NRS 444A.030.

5. The governing body of a municipality may adopt and carry out within the municipality such programs made available pursuant to this section as are deemed necessary and appropriate for that municipality.

6. Any municipality may, with the approval of the governing body of an adjoining municipality, participate in any program adopted by the adjoining municipality pursuant to subsection 5.

7. Persons residing on an Indian reservation or Indian colony may participate in any program adopted pursuant to subsection 5 by a municipality in which the reservation or colony is located if the governing body of the reservation or colony adopts an ordinance requesting such participation. Upon receipt of such a request, the governing body of the municipality shall make available to the residents of the reservation or colony those programs requested.

Sec. 8. ~~[NRS 444A.080 is hereby amended to read as follows:~~

~~444A.080 1. The State Environmental Commission shall adopt regulations necessary to enforce the provisions of NRS 444A.010 to 444A.070, inclusive [.] *, and sections 2 and 3 of this act.*~~

~~2. The State Environmental Commission may adopt any other regulations necessary to carry out the provisions of NRS 444A.010 to 444A.070, inclusive [.] *, and sections 2 and 3 of this act.]*~~ *(Deleted by amendment.)*

Sec. 9. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 11 of this act*, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees

do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 10. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 11 of this act,* the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, ~~[these]~~ *those* fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 11. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On and after October 1, 2009, a governing body or its designee shall not approve any plan or revised plan for the construction or major renovation of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

2. As used in this section:

(a) "Apartment complex" has the meaning ascribed to it in section 2 of this act.

(b) "Condominium" has the meaning ascribed to it in NRS 117.010.

(c) "Major renovation" means the destruction or reconstruction of an apartment complex or condominium to an extent which exceeds 50 percent of the replacement value of the apartment complex or condominium.

Sec. 12. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 11 of this act,* unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 13. NRS 278.460 is hereby amended to read as follows:

278.460 1. A county recorder shall not record any final map unless the map:

(a) Contains or is accompanied by the report of a title company and all the certificates of approval, conveyance and consent required by the provisions of NRS 278.374 to 278.378, inclusive, and by the provisions of any local ordinance; and

(b) Is accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid and that the full amount of any deferred property taxes for the conversion of the property from agricultural use has been paid pursuant to NRS 361A.265.

2. The provisions of NRS 278.010 to 278.630, inclusive, *and section 11 of this act* do not prevent the recording, pursuant to the provisions of NRS 278.010 to 278.630, inclusive, and *section 11 of this act, and* any applicable local ordinances, of a map of any land which is not a subdivision, nor do NRS 278.010 to 278.630, inclusive, *and section 11 of this act* prohibit the recording of a map in accordance with the provisions of any statute requiring the recording of professional land surveyor's records of surveys.

3. A county recorder shall accept or refuse a final map for recordation within 10 days after its delivery to him.

4. A county recorder who records a final map pursuant to this section shall, within 7 working days after he records the final map, provide to the county assessor at no charge:

(a) A duplicate copy of the final map and any supporting documents; or

(b) Access to the digital final map and any digital supporting documents.

The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.

Sec. 14. NRS 396.437 is hereby amended to read as follows:

396.437 1. Except as otherwise provided in this section, the System shall recycle or cause to be recycled the paper and paper products it uses. This subsection does not apply to confidential documents if there is an additional cost for recycling those documents.

2. The System is not required to comply with the requirements of subsection 1 if the Board of Regents determines that the cost to recycle or cause to be recycled the paper and paper products used by the System or one of its branches or facilities is unreasonable and would place an undue burden on the operations of the System, branch or facility.

3. The Board of Regents shall adopt regulations which prescribe the procedure for the disposition of the paper and paper products to be recycled. The Board of Regents ~~[may]~~ *shall* prescribe ~~[a procedure]~~ *procedures* for the recycling of other waste material produced on the premises of the System, a branch or a facility ~~[.]~~ *, including, without limitation, the placement of recycling containers on the premises of the System, a branch or a facility where services for the collection of solid waste are provided.*

4. Any money received by the System for recycling or causing to be recycled the paper and paper products it uses *and other waste material it produces* must be ~~[paid by the Board of Regents to the State Treasurer for credit to the State General Fund.]~~ *accounted for separately and used to carry out the provisions of this section.*

5. As used in this section:

(a) "Paper" includes newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(b) "Paper product" means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(c) "Solid waste" has the meaning ascribed to it in NRS 444.490.

Sec. 15. ~~[The State Environmental Commission shall, not later than October 1, 2009, in accordance with the provisions of NRS 444A.020, as amended by section 5 of this act, adopt regulations establishing minimum standards for the placement of recycling containers on the premises of apartment complexes and condominiums where services for the collection of solid waste are provided.]~~ *(Deleted by amendment.)*

Sec. 16. ~~[This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.]~~ *(Deleted by amendment.)*

Amendment No. 846.

"SUMMARY—Provides for the placement of recycling containers in certain locations. (BDR 40-741)"

"AN ACT relating to recycling; providing for the placement of recycling containers on the premises of certain apartment complexes, condominiums and the Nevada System of Higher Education and its branches and facilities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the board of county commissioners in a county whose population is 100,000 or more (currently Clark and Washoe Counties) is required to make available for use in that county a program for separating recyclable material from other solid waste originating from certain residential premises and public buildings. Existing law authorizes certain other counties and municipalities to provide such a program. (NRS 444A.040) Section 7 of this bill provides for the inclusion of provisions concerning the placement of recycling containers on the premises of apartment complexes and condominiums in the recycling programs of those counties and municipalities.

Existing law authorizes each board of county commissioners in this State to regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county. (NRS 244.3675) Existing law confers similar authority upon the governing body of an incorporated city in this State. (NRS 268.413) Section 11 of this bill prohibits a board of county commissioners of a county or a governing body of a city from approving, on or after October 1, 2009, any plan or revised plan for the construction or major renovation of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

Existing law requires the Board of Regents of the University of Nevada to prescribe procedures for the recycling of paper and paper products used by the Nevada System of Higher Education and requires the Board of Regents to pay any money received by the System for recycling those products to the State Treasurer for credit to the State General Fund. (NRS 396.437) Section 14 of this bill requires the Board to prescribe procedures for the recycling of other waste materials, including, without limitation, the placement of recycling containers on the premises of the System or any of its branches or facilities where services for the collection of solid waste are provided. Section 14 also requires the money received by the System for recycling those materials to be accounted for separately and used to carry out the provisions of that section.

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

Section 1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Apartment complex" means a building or group of buildings, each building of which ~~[is arranged in several]~~ consists of at least five units of connecting rooms, with each unit designed for independent housekeeping.*

Sec. 3. *"Condominium" has the meaning ascribed to it in NRS 117.010.*

Sec. 4. NRS 444A.010 is hereby amended to read as follows:

444A.010 As used in NRS 444A.010 to 444A.080, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms described in NRS 444A.011 to 444A.017, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 444A.040 is hereby amended to read as follows:

444A.040 1. The board of county commissioners in a county whose population is 100,000 or more, or its designee, shall make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~[the]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ *, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

(d) The encouragement of businesses to reduce solid waste and to separate at the source recyclable material from other solid waste. This program must,

without limitation, make information regarding solid waste reduction and recycling opportunities available to a business at the time the business applies for or renews a business license.

2. The board of county commissioners of a county whose population is 40,000 or more but less than 100,000, or its designee:

(a) May make available for use in that county a program for the separation at the source of recyclable material from other solid waste originating from ~~[the]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ *, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) Shall make available for use in that county a program for:

(1) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program established pursuant to paragraph (a).

(2) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

3. The board of county commissioners of a county whose population is less than 40,000, or its designee, may make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~[the]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ *, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.*

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

4. Any program made available pursuant to this section:

(a) Must not:

(1) Conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020; and

(2) Become effective until approved by the Department.

(b) May be based on the model plans adopted pursuant to NRS 444A.030.

5. The governing body of a municipality may adopt and carry out within the municipality such programs made available pursuant to this section as are deemed necessary and appropriate for that municipality.

6. Any municipality may, with the approval of the governing body of an adjoining municipality, participate in any program adopted by the adjoining municipality pursuant to subsection 5.

7. Persons residing on an Indian reservation or Indian colony may participate in any program adopted pursuant to subsection 5 by a municipality in which the reservation or colony is located if the governing body of the reservation or colony adopts an ordinance requesting such participation. Upon receipt of such a request, the governing body of the municipality shall make available to the residents of the reservation or colony those programs requested.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 11 of this act,* the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 10. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 11 of this act,* the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, ~~[~~these~~]~~ *those* fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 11. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On and after October 1, 2009, a governing body or its designee shall not approve any plan or revised plan for the construction or major renovation of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

2. As used in this section:

(a) "Apartment complex" has the meaning ascribed to it in section 2 of this act.

(b) "Condominium" has the meaning ascribed to it in NRS 117.010.

(c) "Major renovation" means the destruction or reconstruction of an apartment complex or condominium to an extent which exceeds 50 percent of the replacement value of the apartment complex or condominium.

Sec. 12. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 11 of this act,* unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 13. NRS 278.460 is hereby amended to read as follows:

278.460 1. A county recorder shall not record any final map unless the map:

(a) Contains or is accompanied by the report of a title company and all the certificates of approval, conveyance and consent required by the provisions of NRS 278.374 to 278.378, inclusive, and by the provisions of any local ordinance; and

(b) Is accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid and that the full amount of any deferred property taxes for the conversion of the property from agricultural use has been paid pursuant to NRS 361A.265.

2. The provisions of NRS 278.010 to 278.630, inclusive, *and section 11 of this act* do not prevent the recording, pursuant to the provisions of NRS 278.010 to 278.630, inclusive, and *section 11 of this act, and* any applicable local ordinances, of a map of any land which is not a subdivision, nor do NRS 278.010 to 278.630, inclusive, *and section 11 of this act* prohibit the recording of a map in accordance with the provisions of any statute requiring the recording of professional land surveyor's records of surveys.

3. A county recorder shall accept or refuse a final map for recordation within 10 days after its delivery to him.

4. A county recorder who records a final map pursuant to this section shall, within 7 working days after he records the final map, provide to the county assessor at no charge:

(a) A duplicate copy of the final map and any supporting documents; or

(b) Access to the digital final map and any digital supporting documents. The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.

Sec. 14. NRS 396.437 is hereby amended to read as follows:

396.437 1. Except as otherwise provided in this section, the System shall recycle or cause to be recycled the paper and paper products it uses. This subsection does not apply to confidential documents if there is an additional cost for recycling those documents.

2. The System is not required to comply with the requirements of subsection 1 if the Board of Regents determines that the cost to recycle or cause to be recycled the paper and paper products used by the System or one

of its branches or facilities is unreasonable and would place an undue burden on the operations of the System, branch or facility.

3. The Board of Regents shall adopt regulations which prescribe the procedure for the disposition of the paper and paper products to be recycled. The Board of Regents ~~[may]~~ *shall* prescribe ~~[a procedure]~~ *procedures* for the recycling of other waste material produced on the premises of the System, a branch or a facility ~~[.]~~ *, including, without limitation, the placement of recycling containers on the premises of the System, a branch or a facility where services for the collection of solid waste are provided.*

4. Any money received by the System for recycling or causing to be recycled the paper and paper products it uses *and other waste material it produces* must be ~~[paid by the Board of Regents to the State Treasurer for credit to the State General Fund.]~~ *accounted for separately and used to carry out the provisions of this section.*

5. As used in this section:

(a) "Paper" includes newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(b) "Paper product" means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(c) "Solid waste" has the meaning ascribed to it in NRS 444.490.

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Senator Parks moved that the Senate concur in the Assembly amendments to Senate Bill No. 137.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 245.

The following Assembly amendment was read:

Amendment No. 902.

"SUMMARY—Makes various changes relating to regional transportation commissions. (BDR 22-585)"

"AN ACT relating to regional transportation commissions; reorganizing provisions governing regional transportation commissions; providing that regional transportation commissions may authorize vending stands; authorizing certain governmental entities to collect fees for placing street banners within rights-of-way and public easements; authorizing certain regional transportation commissions to enter into certain hedge contracts for fuel; ~~[providing tort immunity to regional transportation commissions under~~

~~certain circumstances;~~] making various other changes to provisions relating to regional transportation commissions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Nevada has enacted the County Motor Vehicle Fuel Tax Law which, in part, authorizes certain counties to create regional transportation commissions and impose certain taxes on fuel. (Chapter 373 of NRS) Sections 2-41 and 64 of this bill reorganize the provisions relating to regional transportation commissions into chapter 277 of NRS to be known as the Regional Transportation Commission Act.

Sections 17 and 31 of this bill authorize the regional transportation commission in a county with a population of 400,000 or more (currently Clark County) to construct, install and maintain vending stands in a building, terminal or parking facility owned, operated or leased by the commission. Such vending stands may provide any approved articles, food or beverages to passengers of public mass transportation within the county.

Sections 15 and 28 of this bill authorize regional transportation commissions, under certain circumstances, to place street banners along public highways and within rights-of-way and public easements. Fees collected for placing street banners must be given to the governmental entities that own or control the public easements or rights-of-way where the street banners are placed, less an administrative fee given to the commissions to fund road repair and maintenance.

Section 34 of this bill authorizes a regional transportation commission to construct, modify, operate and maintain certain electrical and communications systems.

Section 38 of this bill authorizes a regional transportation commission that budgets $1,000,000 or more in a fiscal year for the purchase of fuel to enter into a fuel hedge contract under certain circumstances.

Section 55 of this bill requires the governing body of each city that participates in a regional transportation commission to approve the dissolution of the commission, in addition to the governing body of the county. (NRS 373.120)

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

Section 1. Chapter 277 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 41, inclusive, of this act.

Sec. 2. *Sections 2 to 41, inclusive, of this act may be known and cited as the Regional Transportation Commission Act.*

Sec. 3. *As used in sections 2 to 41, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 17, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Acquire" or "acquisition" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the United States of America, any agency,*

instrumentality or corporation thereof, the State of Nevada, any body corporate and politic therein, any corporation, or any person, the endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract, or other acquirement, or any combination thereof, of any project, or an interest therein, authorized by sections 2 to 41, inclusive, of this act.

Sec. 5. *"Board" means the board of county commissioners.*

Sec. 6. *"City" means an incorporated city.*

Sec. 7. *"Commission" means a regional transportation commission created pursuant to section 18 of this act.*

Sec. 8. *"Cost of the project," or any phrase of similar import, means all or any part designated by the board of the cost of any project, or interest therein, being acquired, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including, without limitation, preliminary expenses advanced by the county from money available for use therefor or any other source, or advanced by any city with the approval of the county from money available therefor or from any other source, or advanced by the State of Nevada or the Federal Government, or any corporation, agency or instrumentality thereof, with the approval of the county, or any combination thereof, in the making of surveys, preliminary plans, estimates of costs, other preliminaries, the costs of appraising, printing, estimates, advice, contracting for the services of engineers, architects, financial consultants, attorneys at law, clerical help, other agents or employees, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of bonds and other securities, contingencies, the capitalization with bond proceeds of any interest on the bonds for any period not exceeding 1 year and of any reserves for the payment of the principal of an interest on the bonds, the filing or recordation of instruments, the costs of medium-term obligations, construction loans and other temporary loans not exceeding 10 years appertaining to the project and of the incidental expenses incurred in connection with such financing or loans, and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board.*

Sec. 9. *"Department" means the Department of Motor Vehicles.*

Sec. 10. *"Fixed guideway" means a mass transportation facility which uses and occupies a separate right-of-way or rails exclusively for public transportation, including, without limitation, fixed rail, automated guideway transit and exclusive facilities for buses.*

Sec. 11. *"Improve" or "improvement" means the extension, widening, lengthening, betterment, alteration, reconstruction, surfacing, resurfacing or other major improvement, or any combination thereof, of any project, or an interest therein, authorized by sections 2 to 41, inclusive, of this act. The term includes renovation, reconditioning, patching, general maintenance and other minor repairs.*

Sec. 12. *"Project" means:*

1. In a county whose population is 100,000 or more, street and highway construction, including, without limitation, the acquisition and improvement of any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition and improvement of all types of property therefor.

2. In a county whose population is less than 100,000, street and highway construction, maintenance or repair, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of all types of property therefor.

Sec. 13. *"Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.*

Sec. 14. *"Public transit system" means a system employing motor buses, rails or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons.*

Sec. 15. *"Street banner" means a sign which a commission has authorized pursuant to section 28 of this act to be hung:*

(a) Along any street, avenue, boulevard, alley, public highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, within the jurisdiction of the commission.

(b) On any facility owned or leased by the commission, the county or any participating city.

Sec. 16. *"Town" means an unincorporated town.*

Sec. 17. *"Vending stand" means:*

1. Such buildings, counters, shelving, display and wall cases, refrigerating apparatus and other appropriate auxiliary equipment as are necessary or customarily used for the vending of such articles or the provision of such services as may be approved by the commission and the governing body having care, custody and control of the property on which the vending stand is located;

2. Manual or coin-operated vending machines or similar devices for vending such articles, operated at buildings, terminals and parking facilities owned or leased by the commission, even though no person is physically present on the premises except to service the machines;

3. A snack bar for the dispensing of foodstuffs and beverages; or

4. Portable shelters which can be disassembled and reassembled, and the equipment therein, used for the vending of approved articles, foodstuffs or beverages or the provision of approved services.

Sec. 18. *In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance create a regional transportation commission.*

Sec. 19. *1. In counties whose population is 100,000 or more, the commission must be composed of representatives selected by the following entities from among their members:*

(a) Two by the board.

(b) Two by the governing body of the largest city in the county.

(c) One by the governing body of each additional city in the county.

2. In counties whose population is less than 100,000, the commission must be composed of representatives selected as follows:

(a) If the county contains three or more cities:

(1) Two by the board.

(2) One by the governing body of the largest city.

(b) If the county contains only two cities:

(1) Three by the board, at least one of whom is a representative of the public who is a resident of the county.

(2) One by the governing body of each city in the county.

(c) If the county contains only one city:

(1) Two by the board.

(2) One by the governing body of the city.

(d) If the county contains no city, the board shall select:

(1) Two members of the board; and

(2) One representative of the public, who is a resident of the largest town, if any, in the county.

3. In Carson City, the commission must be composed of representatives selected by the Board of Supervisors as follows:

(a) Two members of the Board of Supervisors, one of whom must be designated by the commission to serve as chairman of the commission.

(b) Three representatives of the city at large.

4. The first representatives must be selected within 30 days after passage of the ordinance creating the commission, and, except as otherwise provided in subsections 5, 6 and 7, must serve until the next ensuing December 31 of an even-numbered year. The representative of any city incorporated after passage of the ordinance must be selected within 30 days after the first meeting of the governing body, and, except as otherwise provided in subsection 7, must serve until the next ensuing December 31 of an even-numbered year. Their successors must serve for terms of 2 years, and vacancies must be filled for the unexpired term.

5. In Carson City:

(a) One representative of the commission who is a member of the Board of Supervisors and one representative of the commission who is a representative of the city at large must serve until the next ensuing December 31 of an even-numbered year; and

(b) One representative of the commission who is a member of the Board of Supervisors and two representatives of the commission who are representatives of the city at large must serve until the next ensuing December 31 of an odd-numbered year.

6. In counties whose population is 100,000 or more, but less than 400,000:

(a) One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an even-numbered year; and

(b) One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an odd-numbered year.

7. In counties whose population is 400,000 or more, the first representatives and the representative of any city incorporated after passage of the ordinance must serve until the next ensuing June 30 of an odd-numbered year.

Sec. 20. *The commission shall provide for its organization and meetings.*

Sec. 21. *1. A commission may be designated as a metropolitan planning organization pursuant to 23 U.S.C. § 134 and 49 U.S.C. § 5303.*

2. If a commission is designated as a metropolitan planning organization, the commission shall carry out the duties prescribed by federal law for a metropolitan planning organization in addition to any other duties required by specific statute.

Sec. 22. *1. In any county in which a commission has been created by ordinance, the commission may:*

(a) Receive and disburse federal funds;

(b) Submit project applications and programs of projects to federal agencies;

(c) Enter into formal agreements concerning projects with federal agencies; and

(d) Conduct public hearings and certify that such hearings were conducted.

2. If a commission receives federal funds for any project, the commission shall comply with any applicable federal law in relation to providing goods or services related to such project.

Sec. 23. *The commission may establish a fund consisting of contributions from private sources, the State or the county and cities and towns within the jurisdiction of the commission for the purpose of matching federal money from any federal source.*

Sec. 24. *A commission may:*

1. Acquire and own both real and personal property.

2. Exercise the power of eminent domain, if the city or county which has jurisdiction over the property approves, for the acquisition, construction, repair or maintenance of public roads, or for any other purpose related to public mass transportation.

3. Sell, lease or convey or otherwise dispose of rights, interests or properties.

4. Adopt regulations for:

(a) Financing eligible activities; and

(b) The operation of systems or services provided by the commission.

Sec. 25. *A commission may:*

1. Sue and be sued.

2. Prepare and approve budgets for the regional street and Highway Fund, the public transit fund and money it receives from any source.

3. Adopt bylaws for the administration of its affairs and rules for the administration and operation of facilities under its control.

4. Conduct studies, develop plans and conduct public hearings to establish and approve short-range and regional plans for transportation.

5. Purchase insurance or establish a reserve or fund for self-insurance, or adopt any combination of these, to insure against loss by reason of:

(a) Damages resulting from fire, theft, accident or other casualty; or

(b) The commission's liability for other damages to persons or property which occur in the construction or operation of facilities or equipment under its control or in the conduct of its activities.

Sec. 26. *A commission may:*

1. Provide for and maintain such security in operations as is necessary for the protection of persons and property under its jurisdiction and control.

2. Employ professional, technical, clerical and other personnel necessary to carry out the provisions of sections 2 to 41, inclusive, of this act.

3. Establish a fine for a passenger who refuses to pay or otherwise fails to pay the proper fare to ride on the public transit system established and operated by the commission. If the commission establishes such a fine, the

commission may establish procedures that provide for the issuance and collection of the fine.

Sec. 27. *1. A commission may:*

(a) Operate a system of public transportation to the exclusion of any other publicly owned system of transportation within its area of jurisdiction.

(b) Use streets, roads, highways and other public rights-of-way for public transportation.

(c) Enter into agreements for the joint use of facilities, installations and properties and the joint exercise of statutory powers.

(d) Prohibit the use of any facility, installation or property owned, operated or leased by the commission, including, without limitation, a transit stop or bus turnout, by any person other than the commission or its agents.

(e) Enter into contracts, leases and agreements with and accept grants and loans from federal and state agencies, counties, cities, towns, other political subdivisions, public or private corporations and other persons, and may perform all acts necessary for the full exercise of the powers vested in the commission.

2. The powers and duties of a commission set forth in sections 2 to 41, inclusive, of this act, do not apply to any monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695.

3. As used in this section, "bus turnout" means a fixed area that is:

(a) Adjacent or appurtenant to, or within a reasonable proximity of, a public highway; and

(b) To be occupied exclusively by buses in receiving or discharging passengers.

Sec. 28. *1. A commission may authorize street banners to be placed within the jurisdiction of the commission:*

(a) Along any public highway.

(b) Except as otherwise provided in subsections 2 and 3, on a facility owned or leased by the commission, the county or any participating city, or within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(1) The facility, public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(2) The street banners may be located safely on the facility or within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

2. If the commission and the governmental entity that owns or controls a facility, public easement or right-of-way execute an interlocal or cooperative agreement that authorizes the placement of street banners, the commission may place street banners on the facility or within the public easement or right-of-way.

3. If the commission or any person authorized by the commission intends to place any street banner within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to place the street banner within the public easement at least 30 days before such placement; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the street banner within the public easement.

4. A commission may charge a fee to place a street banner. Any such fee collected by the commission must be paid to the governmental entity that owns or controls the facility, public easement or right-of-way where the street banner is placed. The governmental entity shall pay to the commission an administrative fee in an amount set forth in the agreement required pursuant to subsection 2. Any administrative fee paid to the commission pursuant to this subsection must be used by the commission to fund road improvement and maintenance.

Sec. 29. *1. A commission, a county whose population is less than 100,000 or a city within such a county may establish or operate a public transit system consisting of:*

(a) Regular routes and fixed schedules to serve the public;

(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 a 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.

2. A commission may lease vehicles to or from or enter into other contracts with a private operator for the provision of such a system.

3. In a county whose population is less than 400,000, such a system may also provide service which includes:

(a) Minor deviations from the regular routes and fixed schedules required by paragraph (a) of subsection 1 on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.

(b) The transporting of persons other than those specified in paragraph (b), (c) or (d) of subsection 1 upon request without regard to regular routes or fixed schedules, if the service is provided by a common motor carrier which has a certificate of public convenience and necessity issued by the Nevada Transportation Authority pursuant to NRS 706.386 to 706.411,

inclusive, and the service is subject to the rules and regulations adopted by the Nevada Transportation Authority for a fully regulated carrier.

4. Notwithstanding the provisions of chapter 332 of NRS or NRS 625.530, a commission may utilize a turnkey procurement process to select a person to design, build, operate and maintain, or any combination thereof, a fixed guideway system, including, without limitation, any minimum operable segment thereof. The commission shall determine whether to utilize turnkey procurement for a fixed guideway project before the completion of the preliminary engineering phase of the project. In making that determination, the commission shall evaluate whether turnkey procurement is the most cost-effective method of constructing the project on schedule and in satisfaction of its transportation objectives.

5. Notwithstanding the provisions of chapter 332 of NRS, a commission may utilize a competitive negotiation procurement process to procure rolling stock for a fixed guideway project, rolling stock for a public transit system, facilities and any other equipment that is related to public transportation. The award of a contract under such a process must be made to the person whose proposal is determined to be the most advantageous to the commission, based on price and other factors specified in the procurement documents.

6. If a commission develops a fixed guideway project, the Department of Transportation is hereby designated to serve as the oversight agency to ensure compliance with the federal safety regulations for rail fixed guideway systems set forth in 49 C.F.R. Part 659.

7. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the Nevada Transportation Authority a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the Nevada Transportation Authority.

(b) "Minimum operable segment" means the shortest portion of a fixed guideway system that is technically capable of providing viable public transportation between two end points.

(c) "Turnkey procurement" means a competitive procurement process by which a person is selected by a commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a fixed guideway system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.

Sec. 30. *1. A commission may construct, convert, improve, equip and maintain parking facilities or parking spaces for use by the general public and public employees. Such facilities or spaces must be owned and operated by the commission or its agents.*

2. The commission may fix and charge reasonable fees for the use of any such parking facilities or spaces.

3. The commission may enter into a contract, lease or other arrangement to provide exclusive parking in designated spaces at any parking facility owned, leased or operated by the commission.

Sec. 31. *1. In a county whose population is 400,000 or more, the commission may provide for the construction, installation and maintenance of vending stands for passengers of public mass transportation in any building, terminal or parking facility owned, operated or leased by the commission.*

2. The provisions of NRS 426.630 to 426.720, inclusive, do not apply to a vending stand constructed, installed or maintained pursuant to this section.

Sec. 32. *In a county whose population is 400,000 or more:*

1. The commission shall provide for the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation.

2. In carrying out its duties pursuant to subsection 1, the commission may displace or limit competition in the construction, installation and maintenance of such benches, shelters and transit stops. The commission may:

(a) Provide those services on an exclusive basis or adopt a regulatory scheme for controlling the provision of those services; or

(b) Grant an exclusive franchise to any person to provide those services.

3. Subject to the provisions of subsections 4 and 5, the commission or any person who is authorized by the commission to provide for the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation may locate such benches, shelters and transit stops within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(a) The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(b) The benches, shelters and transit stops may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

4. Before the commission or any person authorized by the commission may construct or install any benches, shelters and transit stops within any public easement or right-of-way, the commission and the governmental entity that owns or controls the public easement or right-of-way shall execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the benches, shelters and transit stops within the public easement or right-of-way.

5. If the commission or any person authorized by the commission intends to construct or install any benches, shelters or transit stops within any public easement that is located within the common area or common elements of a

common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to construct or install the benches, shelters or transit stops within the public easement at least 30 days before such construction or installation begins; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the benches, shelters or transit stops within the public easement.

6. The commission shall post on each bench, within each shelter and near each transit stop a notice that provides a telephone number that a person may use to report damage to the benches, shelters or transit stops.

7. No board, governing body or town board may:

(a) Provide for the construction, installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation except with the approval of or at the request of the commission; or

(b) Adopt any ordinance, regulation or plan, enter into or approve any franchise, contract or agreement or take any other action that prohibits or unreasonably restricts the commission from providing for the construction, installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation.

Sec. 33. *1. In a county whose population is 400,000 or more, the commission shall establish an advisory committee to provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county. The membership of the advisory committee must consist of:*

(a) Two members of the general public from each city within the county who are appointed by the governing body of that city; and

(b) Six members of the general public appointed by the commission.

2. Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.

3. A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.

4. The advisory committee shall meet at least six times annually.

5. At its first meeting and annually thereafter, the advisory committee shall elect a chairman and vice chairman from among its members.

6. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

Sec. 34. *1. Subject to the provisions of subsections 2, 4 and 5, the commission may construct, modify, operate and maintain electrical and communication systems, including, without limitation, traffic signalization or messaging systems, and related infrastructure that are necessary to carry out the commission's duties set forth in sections 2 to 41, inclusive, of this act*

within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(a) The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(b) The electrical and communication systems and related infrastructure may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

2. If the commission and the governmental entity that owns or controls a public easement or right-of-way execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the electrical and communication systems and related infrastructure within the public easement or right-of-way, the commission or any person authorized by the commission may construct or install any electrical and communication systems and related infrastructure within the public easement or right-of-way.

3. If the commission or any person authorized by the commission intends to construct or install any electrical or communication systems or related infrastructure within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to construct or install the electrical or communication systems or related infrastructure within the public easement at least 30 days before such construction or installation begins; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the electrical or communication systems or related infrastructure within the public easement.

4. The commission may require any person who causes damage to an electrical or communication system or related infrastructure to:

(a) Reimburse the commission for the cost of repairing the damage to the electrical or communication system or related infrastructure; or

(b) Repair the damage to the electrical or communication system or related infrastructure to the satisfaction of the commission.

5. A commission that modifies, operates and maintains electrical and communication systems pursuant to this section is not a public utility and nothing in this section authorizes a commission to construct or maintain any telecommunications system, including, without limitation, a tower, pole or similar structure used to provide telecommunications services.

Sec. 35. *1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to section 25 of this act may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the*

provisions of sections 2 to 41, inclusive, of this act, may be obtained by direct distribution from the regional street and Highway Fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and Highway Fund as provided in NRS 373.150.

2. The board may, after the enactment of an ordinance as authorized by NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065, issue revenue bonds and other revenue securities, on the behalf and in the name of the county:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065;

(b) Which must not be general obligations of the county or a charge on any real estate therein; and

(c) Which may be secured as to principal and interest by a pledge authorized by chapter 373 of NRS of the receipts from the motor vehicle fuel taxes designated in chapter 373 of NRS, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county is authorized to issue bonds without the necessity of their being authorized at any election in such manner and with such terms as provided in sections 2 to 41, inclusive, of this act.

4. Subject to the provisions of sections 2 to 41, inclusive, of this act, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county securities, and in connection with the undertaking or project, the board may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the motor vehicle fuel taxes designated in chapter 373 of NRS except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act,

➥ *all bonds and other securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act must be payable solely from the proceeds of motor vehicle fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by chapter 373 of NRS. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to paragraphs (a) and (b) of subsection 1 of NRS 373.065 may be used by the county for the payment of securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act and may be pledged therefor. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance authorizing their issuance and any other instrument appertaining to the securities.*

7. The ordinance authorizing the issuance of any bond or other revenue security hereunder must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified.

Sec. 36. *In counties having a population of less than 100,000, the commission shall submit an annual report to the Department for the fiscal year showing the amount of receipts from the county motor vehicle fuel tax imposed pursuant to chapter 373 of NRS and the nature of the expenditures for each project.*

Sec. 37. *1. In a county whose population is 400,000 or more, the commission shall cooperate with the local air pollution control board and the regional planning coalition in the county in which it is located to:*

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) Establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, the commission must:

(a) Consult with the local air pollution control board and the regional planning coalition; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional planning coalition; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional planning coalition" has the meaning ascribed to it in NRS 278.0172.

Sec. 38. *1. A commission that budgets $1,000,000 or more in any fiscal year for the purchase of fuel may enter into an agreement for an exchange of cash flow based on the price of fuel as provided in this section if it finds that such an agreement would be in the best interest of the commission.*

2. A commission may only enter into an agreement to exchange cash flows payments based on the price of fuel only if:

(a) The long-term unsecured debt obligations of the person with whom the commission enters the agreement are rated "A" or better by a nationally recognized rating agency; or

(b) The obligations pursuant to the agreement of the person with whom the Commission enters the agreement are guaranteed by a person whose long-term debt obligations are rated "A" or better by a nationally recognized rating agency.

3. A commission may agree, with respect to a fuel that the commission has budgeted to purchase in a fiscal year:

(a) To pay sums based on a fixed price or prices for that fuel, on an amount of the fuel that does not exceed the amount of the fuel that the commission expects to acquire over a period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a variable price for that fuel determined pursuant to a formula or price reference set forth in the agreement on the same amount of the fuel as the amount used in determining the sums payable by the commission;

(b) To pay sums based on a variable price or prices for that fuel determined pursuant to a formula or price reference set forth in the agreement, on an amount of fuel that does not exceed the amount of the fuel the commission expects it will acquire over the period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a fixed price or prices for that fuel on the same amount of fuel as the amount used in determining the sums payable by the commission; or

(c) To pay sums based on a variable price or prices for the fuel determined pursuant to a formula or price reference set forth in the agreement, on an amount of the fuel that does not exceed the amount of the fuel that the commission expects it will acquire over the period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a different variable price for that fuel determined pursuant to a formula or price reference set forth in the agreement on the same amount of the fuel as the amount used in determining the amount payable by the commission.

4. The payments to be made for any fiscal year must be based on the amounts of the fuel that the commission expects to buy or sell during that fiscal year and must be scheduled to be paid within an 18-month period that begins 3 months before and ends 3 months after the fiscal year.

5. A certification by the commission or its chief financial officer as to any determination made under this section or as to the amount of fuel that a commission expects to buy or sell during the term of an agreement entered into pursuant to this section, or during all or any part of any fiscal year that is wholly or partially included in the term of an agreement entered into pursuant to this section, is conclusive, absent fraud, for the purpose of determining whether the commission is authorized to enter into an agreement under this section.

6. The term of an agreement entered into pursuant to this section may not exceed 63 months.

7. An agreement entered into pursuant to this section is not:

(a) A debt or indebtedness of the commission for the purposes of any limitation upon the indebtedness of the commission or any requirement for an election with regard to the issuance of securities that is applicable to the commission.

(b) Subject to the limitations of subsection 1 of NRS 354.626.

8. A commission which has entered into an agreement pursuant to this section may treat the price it pays or expects to pay for fuel after giving effect to the agreement for the purpose of calculating:

(a) Rates and charges of a revenue-producing enterprise whose revenues are pledged to or used to pay municipal securities;

(b) Statutory requirements concerning revenue coverage that are applicable to municipal securities; and

(c) Any other amounts which are based upon the amounts to be paid for fuel.

9. Subject to covenants applicable to municipal securities to which any revenues of the commission or county are pledged, any payments required to be made by the commission under an agreement may be made from money that could be used to pay for the fuel or from any other legally available source.

10. The powers granted by this section are in addition to all other powers of any commission, and nothing herein limits the exercise of a power a commission otherwise has.

Sec. 39. (Deleted by amendment.)

Sec. 40. *In addition to the general and special powers conferred by sections 2 to 41, inclusive, of this act, a commission is authorized to exercise such powers as are necessary.*

Sec. 41. *Sections 2 to 41, inclusive, of this act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this State and other states and of the government of the United States having to do with the subject of transportation.*

Sec. 42. NRS 244.187 is hereby amended to read as follows:

244.187 A board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the county and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.
2. Taxicabs and other public transportation, unless regulated in that county by an agency of the State.
3. Collection and disposal of garbage and other waste.
4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.
5. Water and sewage treatment, unless regulated in that county by an agency of the State.
6. Concessions on, over or under property owned or leased by the county.
7. Operation of landfills.
8. Except as otherwise provided in ~~[NRS 373.1183,]~~ *section 32 of this act*, construction and maintenance of benches and shelters for passengers of public mass transportation.

Sec. 43. NRS 268.081 is hereby amended to read as follows:

268.081 The governing body of an incorporated city may, to provide adequate, economical and efficient services to the inhabitants of the city and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.
2. Taxicabs and other public transportation, unless regulated in that city by an agency of the State.
3. Collection and disposal of garbage and other waste.
4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.
5. Water and sewage treatment, unless regulated in that city by an agency of the State.

6. Concessions on, over or under property owned or leased by the city.

7. Operation of landfills.

8. Search and rescue.

9. Inspection required by any city ordinance otherwise authorized by law.

10. Except as otherwise provided in ~~[NRS 373.1183,]~~ *section 32 of this act*, construction and maintenance of benches and shelters for passengers of public mass transportation.

11. Any other service demanded by the inhabitants of the city which the city itself is otherwise authorized by law to provide.

Sec. 44. NRS 269.128 is hereby amended to read as follows:

269.128 A town board or board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the town and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.

2. Taxicabs and other public transportation, unless regulated in that town by an agency of the State.

3. Collection and disposal of garbage and other waste.

4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.

5. Water and sewage treatment, unless regulated in that town by an agency of the State.

6. Concessions on, over or under property owned or leased by the town.

7. Operation of landfills.

8. Except as otherwise provided in ~~[NRS 373.1183,]~~ *section 32 of this act*, construction and maintenance of benches and shelters for passengers of public mass transportation.

Sec. 45. NRS 278.02584 is hereby amended to read as follows:

278.02584 1. The regional planning coalition shall cooperate with the local air pollution control board and the regional transportation commission in the county in which it is located to:

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) In addition to the comprehensive regional policy plan required by NRS 278.02528, establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, the regional planning coalition shall:

(a) Consult with the local air pollution control board and the regional transportation commission; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional transportation commission; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. If the program for control of air pollution established and administered by the local air pollution control board includes measures for the control of traffic or transportation, the regional planning coalition shall consider recommending the use of alternative land use designations, densities and design standards to meet local and regional needs with respect to transportation.

4. Not more than once every 2 years, the regional planning coalition shall:

(a) Prepare a report that summarizes the policies related to land use, transportation and air quality which it has adopted and which the local air pollution control board and the regional transportation commission have adopted; and

(b) Submit a copy of the report to the:

(1) County clerk of the appropriate county;

(2) Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(3) Division of State Lands of the State Department of Conservation and Natural Resources; and

(4) Department of Transportation.

5. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional transportation commission" means a regional transportation commission created and organized in accordance with ~~[chapter 373 of NRS.]~~ *sections 2 to 41, inclusive, of this act.*

Sec. 46. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, is guilty of a misdemeanor, and upon conviction thereof ceases to hold his office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

➥ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local government, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

(l) An agreement authorized pursuant to section 38 of this act.

Sec. 47. NRS 365.545 is hereby amended to read as follows:

365.545 1. The proceeds of all taxes on fuel for jet or turbine-powered aircraft imposed pursuant to the provisions of NRS 365.170 or 365.203 must be deposited in the Account for Taxes on Fuel for Jet or Turbine-Powered Aircraft in the State General Fund and must be allocated monthly by the Department to the:

(a) Governmental entity which operates the airport at which the tax was collected, if the airport is operated by a governmental entity;

(b) Governmental entity which owns the airport at which the tax was collected, if the airport is owned but not operated by a governmental entity; or

(c) County in which is located the airport at which the tax was collected, if the airport is neither owned nor operated by a governmental entity.

2. Except as otherwise provided in subsection 3, the money allocated pursuant to subsection 1:

(a) Must be used by the governmental entity receiving it to pay the cost of:

(1) Transportation projects related to airports, including access on the ground to airports;

(2) The payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1);

(3) Promoting the use of an airport located in a county whose population is less than 400,000, including, without limitation, increasing the number and availability of flights at the airport;

(4) Contributing money to the Trust Fund for Aviation created by NRS 494.048; or

(5) Any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

3. Any money allocated pursuant to subsection 1 to a county whose population is 400,000 or more and in which a regional transportation commission has been created pursuant to ~~[chapter 373 of NRS,]~~ *sections 2 to 41, inclusive, of this act,* from the proceeds of the tax imposed pursuant to paragraph (a) of subsection 2 of NRS 365.170 on fuel for jet or turbine-powered aircraft sold, distributed or used in that county, excluding the proceeds of any tax imposed pursuant to NRS 365.203, may, in addition to the uses authorized pursuant to subsection 2, be allocated by the county to that regional transportation commission. The money allocated pursuant to this subsection to a regional transportation commission:

(a) Must be used by the regional transportation commission:

(1) To pay the cost of transportation projects described in a regional plan for transportation established by that regional transportation commission pursuant to ~~[NRS 373.1161;]~~ *section 25 of this act;*

(2) For the payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1); or

(3) For any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued by the county at the request of the regional transportation commission to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 48. NRS 365.550 is hereby amended to read as follows:

365.550 1. Except as otherwise provided in subsection 2, the receipts of the tax levied pursuant to NRS 365.180 must be allocated monthly by the Department to the counties using the following formula:

(a) Determine the average monthly amount each county received in the Fiscal Year ending on June 30, 2003, and allocate to each county that amount, or if the total amount to be allocated is less than that amount, allocate to each county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003;

(b) If the total amount to be allocated is greater than the average monthly amount all counties received in the Fiscal Year ending on June 30, 2003, determine for each county an amount from the total amount to be allocated using the following formula:

(1) Multiply the county's percentage share of the total state population by 2;

(2) Add the percentage determined pursuant to subparagraph (1) to the county's percentage share of total mileage of improved roads or streets maintained by the county or an incorporated city located within the county;

(3) Divide the sum of the percentages determined pursuant to subparagraph (2) by 3; and

(4) Multiply the total amount to be allocated by the percentage determined pursuant to subparagraph (3);

(c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (a) from the amount determined pursuant to paragraph (b); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(d) Identify each county for which the amount determined pursuant to paragraph (b) is less than or equal to the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(e) Subtract the amount determined pursuant to subparagraph (2) of paragraph (d) from the amount determined pursuant to subparagraph (2) of paragraph (c);

(f) Divide the amount determined pursuant to subparagraph (1) of paragraph (c) for each county by the sum determined pursuant to subparagraph (2) of paragraph (c) for all counties to determine each county's percentage share of the sum determined pursuant to subparagraph (2) of paragraph (c); and

(g) In addition to the allocation made pursuant to paragraph (a), allocate to each county that is identified pursuant to paragraph (c) a percentage of the total amount determined pursuant to paragraph (e) that is equal to the percentage determined pursuant to paragraph (f).

2. At the end of each fiscal year, the Department shall:

(a) Determine the total amount to be allocated to all counties pursuant to subsection 1 for the current fiscal year; and

(b) Use the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to each county an amount determined pursuant to subsection 3.

3. If the total amount to be allocated to all the counties determined pursuant to paragraph (a) of subsection 2:

(a) Does not exceed the total amount that was received by all the counties for the Fiscal Year ending on June 30, 2003, the Department shall adjust the final monthly allocation to be made to each county so that each county is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003.

(b) Exceeds the total amount that was received by all counties for the Fiscal Year ending on June 30, 2003, the Department shall:

(1) Identify the total amount allocated to each county for the Fiscal Year ending on June 30, 2003, and the total amount for the current fiscal year determined pursuant to paragraph (a) of subsection 2;

(2) Apply the formula set forth in paragraph (b) of subsection 1 using the amounts in subparagraph (1), instead of the monthly amounts, to determine the total allocations to be made to the counties for the current fiscal year; and

(3) Adjust the final monthly allocation to be made to each county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to subparagraph (2).

4. Of the money allocated to each county pursuant to the provisions of subsections 1, 2 and 3:

(a) An amount equal to that part of the allocation which represents 1.25 cents of the tax per gallon must be used exclusively for the service and redemption of revenue bonds issued pursuant to ~~[chapter 373 of NRS,]~~ *section 35 of this act,* for the construction, maintenance and repair of county roads, and for the purchase of equipment for that construction, maintenance and repair, under the direction of the boards of county commissioners of the several counties, and must not be used to defray expenses of administration.

(b) An amount equal to that part of the allocation which represents 2.35 cents of the tax per gallon must be allocated to the county, if there are no incorporated cities in the county, or, if there is at least one incorporated city in the county, allocated monthly by the Department to the county and each incorporated city in the county using, except as otherwise provided in paragraph (c), the following formula:

(1) Determine the average monthly amount the county and each incorporated city in the county received in the fiscal year ending on June 30, 2005, and allocate to the county and each incorporated city in the county that amount, or if the total amount to be allocated is less than that amount, allocate to the county and each incorporated city in the county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) If the total amount to be allocated is greater than the average monthly amount the county and all incorporated cities within the county received in the fiscal year ending on June 30, 2005, determine for the county and each incorporated city in the county an amount from the total amount to be allocated using the following formula:

(I) One-fourth in proportion to total area.

(II) One-fourth in proportion to population.

(III) One-fourth in proportion to the total mileage of improved roads and streets maintained by the county or incorporated city in the county, as applicable.

(IV) One-fourth in proportion to vehicle miles of travel on improved roads and streets maintained by the county or incorporated city in the county, as applicable.

➥ For the purpose of applying the formula, the area of the county excludes the area included in any incorporated city.

(3) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was greater than the amount allocated to the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (1) from the amount determined pursuant to subparagraph (2); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(4) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was less than or equal to the amount determined for the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (2) from the amount determined pursuant to subparagraph (1); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(5) Subtract the amount determined pursuant to sub-subparagraph (II) of subparagraph (4) from the amount determined pursuant to sub-subparagraph (II) of subparagraph (3).

(6) Divide the amount determined pursuant to sub-subparagraph (I) of subparagraph (3) for the county and each incorporated city in the county by the sum determined pursuant to sub-subparagraph (II) of subparagraph (3) for the county and all incorporated cities in the county to determine the county's and each incorporated city's percentage share of the sum determined pursuant to sub-subparagraph (II) of subparagraph (3).

(7) In addition to the allocation made pursuant to subparagraph (1), allocate to the county and each incorporated city in the county that is identified pursuant to subparagraph (3) a percentage of the total amount determined pursuant to subparagraph (5) that is equal to the percentage determined pursuant to subparagraph (6).

(c) At the end of each fiscal year, the Department shall:

(1) Determine the total amount to be allocated to a county and each incorporated city within the county pursuant to paragraph (b) for the current fiscal year; and

(2) Use the amount equal to that part of the allocation which represents 2.35 cents per gallon of the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to a county and each incorporated city in the county an amount determined pursuant to paragraph (d).

(d) If the total amount to be allocated to a county and all incorporated cities in the county determined pursuant to subparagraph (1) of paragraph (c):

(1) Does not exceed the total amount that was received by the county and all the incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall adjust the final monthly amount allocated to the county and each incorporated city in the county so that the county and each incorporated city is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) Exceeds the total amount that was received by the county and all incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall:

(I) Identify the total amount allocated to the county and each incorporated city in the county for the fiscal year ending on June 30, 2005, and the total amount for the current fiscal year determined pursuant to subparagraph (1) of paragraph (c);

(II) Apply the formula set forth in subparagraph (2) of paragraph (b) using the amounts in sub-subparagraph (I), instead of the monthly amounts, to determine the total allocations to be made to the county and the incorporated cities in the county for the current fiscal year; and

(III) Adjust the final monthly allocation to be made to the county and each incorporated city in the county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to sub-subparagraph (II).

5. The amount allocated to the counties and incorporated cities pursuant to subsections 1 to 4, inclusive, must be remitted monthly. The State Controller shall draw his warrants payable to the county treasurer of each of the several counties and the city treasurer of each of the several incorporated cities, as applicable, and the State Treasurer shall pay the warrants out of the proceeds of the tax levied pursuant to NRS 365.180.

6. The formula computations must be made as of July 1 of each year by the Department of Motor Vehicles, based on estimates which must be furnished by the Department of Transportation and, if applicable, any adjustments to the estimates determined to be appropriate by the Committee pursuant to subsection 10. Except as otherwise provided in subsection 10, the determination made by the Department of Motor Vehicles is conclusive.

7. The Department of Transportation shall complete:

(a) The estimates of the total mileage of improved roads or streets maintained by each county and incorporated city on or before August 31 of each year.

(b) A physical audit of the information submitted by each county and incorporated city pursuant to subsection 8 at least once every 10 years.

8. Each county and incorporated city shall, not later than March 1 of each year, submit a list to the Department of Transportation setting forth:

(a) Each improved road or street that is maintained by the county or city; and

(b) The beginning and ending points and the total mileage of each of those improved roads or streets.

➥ Each county and incorporated city shall, at least 10 days before the list is submitted to the Department of Transportation, hold a public hearing to identify and determine the improved roads and streets maintained by the county or city.

9. If a county or incorporated city does not agree with the estimates prepared by the Department of Transportation pursuant to subsection 7, the county or incorporated city may request that the Committee examine the estimates and recommend an adjustment to the estimates. Such a request must be submitted to the Committee not later than October 15.

10. The Committee shall hold a public hearing and review any request it receives pursuant to subsection 9 and determine whether an adjustment to the estimates is appropriate on or before December 31 of the year it receives a request pursuant to subsection 9. Any determination made by the Committee pursuant to this subsection is conclusive.

11. The Committee shall monitor the fiscal impact of the formula set forth in this section on counties and incorporated cities. Biennially, the Committee shall prepare a report concerning its findings and recommendations regarding that fiscal impact and submit the report on or before February 15 of each odd-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Committees on Taxation of the Nevada Legislature for their review.

12. As used in this section:

(a) "Committee" means the Committee on Local Government Finance created pursuant to NRS 354.105.

(b) "Construction, maintenance and repair" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a county or city road and is necessary for the safe and efficient use of that road, including, without limitation:

(1) Grades and regrades;

(2) Graveling, oiling, surfacing, macadamizing and paving;

(3) Sweeping, cleaning and sanding roads and removing snow from a road;

(4) Crosswalks and sidewalks;

(5) Culverts, catch basins, drains, sewers and manholes;

(6) Inlets and outlets;

(7) Retaining walls, bridges, overpasses, underpasses, tunnels and approaches;

(8) Artificial lights and lighting equipment, parkways, control of vegetation and sprinkling facilities;

(9) Rights-of-way;

(10) Grade and traffic separators;

(11) Fences, cattle guards and other devices to control access to a county or city road;

(12) Signs and devices for the control of traffic; and

(13) Facilities for personnel and the storage of equipment used to construct, maintain or repair a county or city road.

(c) "Improved road or street" means a road or street that is, at least:

(1) Aligned and graded to allow reasonably convenient use by a motor vehicle; and

(2) Drained sufficiently by a longitudinal and transverse drainage system to prevent serious impairment of the road or street by surface water.

(d) "Total mileage of an improved road or street" means the total mileage of the length of an improved road or street, without regard to the width of that road or street or the number of lanes it has for vehicular traffic.

Sec. 49. NRS 373.023 is hereby amended to read as follows:

373.023 "Commission" means ~~[the]~~ *a* regional transportation commission ~~[.]~~ *created pursuant to section 18 of this act.*

Sec. 50. NRS 373.030 is hereby amended to read as follows:

373.030 1. In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance

~~(a) Create a regional transportation commission; and~~

~~(b) Impose]~~ *impose* a tax on motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount not to exceed 9 cents per gallon.

2. A tax imposed pursuant to this section is in addition to other motor vehicle fuel taxes imposed pursuant to the provisions of chapter 365 of NRS.

3. As used in this section:

(a) "Aviation fuel" has the meaning ascribed to it in NRS 365.015.

(b) "Leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

Sec. 51. NRS 373.060 is hereby amended to read as follows:

373.060 Any ordinance enacted pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 must provide that the county motor vehicle fuel tax will be imposed on the first day of the second calendar month following the enactment of the ordinance.

Sec. 52. NRS 373.065 is hereby amended to read as follows:

373.065 1. Except as otherwise provided in this section, in a county whose population is less than 400,000:

(a) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.180 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.180 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(b) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by

multiplying the amount of the tax imposed pursuant to NRS 365.190 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.190 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(c) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.192 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.192 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(d) If the board imposes a tax pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030, the board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

2. A board may not adopt any ordinance authorized by this section unless:

(a) In a county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board first:

(1) Imposes a tax pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 at the maximum rate authorized pursuant to that paragraph; or

(2) Submits to the voters of the county at a general or special election the question of whether to impose a tax pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 at the maximum rate authorized pursuant to that paragraph; and

(b) A question concerning the imposition of the tax pursuant to this section is first approved by a majority of the registered voters of the county voting upon the question which the board may submit to the voters at any general election. The Committee on Local Government Finance shall annually provide to each city clerk, county clerk and district attorney in this State forms for submitting a question to the registered voters of a county pursuant to this paragraph. Any question submitted to the registered voters of a county pursuant to this paragraph must be in the form most recently provided by the Committee on Local Government Finance.

3. An ordinance adopted pursuant to this section in a county whose population is less than 100,000:

(a) Must be reapproved, in addition to the approval required by paragraph (b) of subsection 2, at least once every 8 years by a majority of the registered voters of the county voting on the question which the board may submit to the voters at any general election; and

(b) Expires by limitation no later than the last day of the 8th calendar year following the calendar year in which the ordinance was:

(1) Approved in accordance with paragraph (b) of subsection 2; or

(2) Most recently reapproved in accordance with this subsection,

➥ whichever occurs later.

4. Any ordinance authorized by this section may be adopted in combination with any other ordinance authorized by this section. Each tax imposed pursuant to this section is in addition to any other motor vehicle fuel taxes imposed pursuant to the provisions of this chapter and chapter 365 of NRS. Upon adoption of an ordinance authorized by this section, no further action by the board is necessary to effectuate the annual increases before the ordinance expires by limitation.

5. Any ordinance adopted pursuant to this section must:

(a) Become effective on the first day of the first calendar quarter beginning not less than 90 days after the adoption of the ordinance; and

(b) If the board has created a ~~[regional transportation]~~ commission in the county, require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

6. Any ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.180 which becomes effective after the adoption of that ordinance.

(b) Paragraph (b) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.190 which becomes effective after the adoption of that ordinance.

(c) Paragraph (c) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.192 which becomes effective after the adoption of that ordinance.

(d) Paragraph (d) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030; and

(2) Expire by limitation no later than the effective date of any subsequent ordinance increasing or decreasing the amount of the tax imposed in that county pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030.

Sec. 53. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of the county motor vehicle fuel tax:

1. Imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 which are received by the

county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and Highway Fund in the county treasury, and disbursed only in accordance with the provisions of this chapter ~~[.]~~ *and sections 2 to 41, inclusive, of this act.* After July 1, 1975, the regional street and Highway Fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 54. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 55. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county motor vehicle fuel tax ordinance shall be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued hereunder or other obligations incurred hereunder, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues, pursuant to this chapter, have been discharged in full, but the board , *with the approval of the governing body of each participating city,* may at any time dissolve the commission and provide that no further obligations shall be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030 of the proceeds of the motor vehicle fuel taxes collected thereunder, shall not be repealed nor amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued hereunder or other obligations incurred hereunder, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds, pursuant to this chapter,

have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations shall be incurred thereafter.

Sec. 56. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ~~[an ordinance]~~ *ordinances* as authorized in NRS 373.030 ~~[,]~~ *and section 18 of this act,* all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from a county motor vehicle fuel tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 must first be submitted to the ~~[regional transportation]~~ commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to ~~[NRS 373.1161,]~~ *section 25 of this act,* the commission shall evaluate it in terms of:

(a) The priorities established by the plan;

(b) The relation of the proposed work to other projects already constructed or authorized;

(c) The relative need for the project in comparison with others proposed; and

(d) The money available.

➥ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of the county motor vehicle fuel tax authorized pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065, except to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred hereunder, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in ~~[NRS 373.130.]~~ *section 35 of this act.* Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to ~~[NRS 373.1161.]~~ *section 25 of this act.*

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to ~~[NRS 373.1161]~~ *section 25 of this act*, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➥ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

Sec. 57. NRS 373.150 is hereby amended to read as follows:

373.150 1. Any city or town whose territory is not included wholly or in part in a regional plan for transportation established pursuant to ~~[NRS 373.1161]~~ *section 25 of this act* may receive a distribution in aid of an approved construction project from the regional street and Highway Fund, which must not exceed the amount allocated to such city or town pursuant to subsection 2.

2. The share of revenue from the county motor vehicle fuel tax allocated to a city or town pursuant to subsection 1 must be in the proportion which its total assessed valuation bears to the total assessed valuation of the entire county. Any amount so allocated which is not distributed currently in aid of an approved project must remain in the fund to the credit of that city or town.

Sec. 58. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances providing for the issuance of any bonds or other securities issued hereunder payable from the receipts from the motor vehicle fuel excise taxes herein designated may at the discretion of the board, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued hereunder.

2. If the board determines in any ordinance authorizing the issuance of any bonds or other securities hereunder that the proceeds of the taxes levied and collected pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065 are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof,

the board may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance hereunder by a pledge of and the creation of a lien upon not only the proceeds of any motor vehicle fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of ~~[NRS 373.130,]~~ *section 35 of this act*, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any motor vehicle fuel so long as any bonds or other securities issued hereunder remain outstanding and are not limited to any type or types of motor vehicle fuel in use when the bonds or other securities are issued.

Sec. 59. NRS 377A.130 is hereby amended to read as follows:

377A.130 A public transit system may, in addition to providing local transportation within a county, provide:

1. Services to assist commuters in communicating with others to share rides;

2. Transportation for elderly persons and persons with disabilities, including, without limitation, nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170;

3. Parking for the convenience of passengers on the system;

4. Stations and other necessary facilities to ensure the comfort and safety of passengers; and

5. Transportation that is available pursuant to ~~[NRS 373.117.]~~ *section 29 of this act.*

Sec. 60. NRS 405.030 is hereby amended to read as follows:

405.030 1. Except as otherwise provided in subsection 3 *and section 28 of this act*, and except within the limits of any city or town through which the highway may run, and on benches and shelters for passengers of public mass transportation built pursuant to a franchise granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or ~~[373.1183,]~~ *section 32 of this act*, or on monorail stations, it is unlawful for any person, firm or corporation to paste, paint, print or in any manner whatever place or attach to any building, fence, gate, bridge, rock, tree, board, structure or anything whatever, any written, printed, painted or other outdoor advertisement, bill, notice, sign, picture, card or poster:

(a) Within any right-of-way of any state highway or road which is owned or controlled by the Department of Transportation.

(b) Within 20 feet of the main-traveled way of any unimproved highway.

(c) On the property of another within view of any such highway, without the owner's written consent.

2. Nothing in this section prevents the posting or maintaining of any notices required by law to be posted or maintained, or the placing or maintaining of highway signs giving directions and distances for the information of the traveling public if the signs are approved by the Department of Transportation.

3. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of his lot and in accordance with the requirements and limitations set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

4. If a franchisee receives revenues from an advertisement, bill, notice, sign, picture, card or poster authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertisement, bill, notice, sign, picture, card or poster authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

5. As used in this section, "monorail station" means:

(a) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(b) Any facilities or appurtenances within such a structure.

Sec. 61. NRS 405.110 is hereby amended to read as follows:

405.110 1. Except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or ~~[373.1183,]~~ *sections 28 and 32 of this act*, or on monorail stations, no advertising signs, signboards, boards or other materials containing advertising matter may:

(a) Except as otherwise provided in subsection 3, be placed upon or over any state highway.

(b) Except as otherwise provided in subsections 3 and 4, be placed within the highway right-of-way.

(c) Except as otherwise provided in subsection 3, be placed upon any bridge or other structure thereon.

(d) Be so situated with respect to any public highway as to obstruct clear vision of an intersecting highway or highways or otherwise so situated as to constitute a hazard upon or prevent the safe use of the state highway.

2. With the permission of the Department of Transportation, counties, towns or cities of this State may place at such points as are designated by the

Director of the Department of Transportation suitable signboards advertising the counties, towns or municipalities.

3. A person may place an advertising sign, signboard, board or other material containing advertising matter in any airspace above a highway if:

(a) The Department of Transportation has leased the airspace to the person pursuant to subsection 2 of NRS 408.507, the airspace is over an interstate highway and:

(1) The purpose of the sign, signboard, board or other material is to identify a commercial establishment that is entirely located within the airspace, services rendered, or goods produced or sold upon the commercial establishment or that the facility or property that is located within the airspace is for sale or lease; and

(2) The size, location and design of the sign, signboard, board or other material and the quantity of signs, signboards, boards or other materials have been approved by the Department of Transportation; or

(b) The person owns real property adjacent to an interstate highway and:

(1) The person has dedicated to a public authority a fee or perpetual easement interest in at least 1 acre of the property for the construction or maintenance, or both, of the highway over which he is placing the sign, signboard, board or other material and the person retained the air rights in the airspace above the property for which the person has dedicated the interest;

(2) The sign, signboard, board or other material is located in the airspace for which the person retained the air rights;

(3) The structure that supports the sign, signboard, board or other material is not located on the property for which the person dedicated the fee or easement interest to the public authority, and the public authority determines that the location of the structure does not create a traffic hazard; and

(4) The purpose of the sign, signboard, board or other material is to identify an establishment or activity that is located on the real property adjacent to the interstate highway, or services rendered or goods provided or sold on that property.

4. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of his lot and in accordance with the requirements and limitations set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

5. If any such sign is placed in violation of this section, it is thereby declared a public nuisance and may be removed forthwith by the Department of Transportation or the public authority.

6. Any person placing any such sign in violation of the provisions of this section shall be punished by a fine of not more than $250, and is also liable in damages for any injury or injuries incurred or for injury to or loss of property sustained by any person by reason of the violation.

7. If a franchisee receives revenues from an advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

8. As used in this section, "monorail station" means:

(a) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(b) Any facilities or appurtenances within such a structure.

Sec. 62. NRS 484.287 is hereby amended to read as follows:

484.287 1. It is unlawful for any person to place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any such device, sign or signal, and except as otherwise provided in subsection 4, a person shall not place or maintain nor may any public authority permit upon any highway any sign, signal , ~~[or]~~ marking *or street banner* bearing thereon any commercial advertising except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, ~~[or 373.1183,]~~ *or sections 28 and 32 of this act,* or on monorail stations.

2. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the proper public authority may remove the same or cause it to be removed without notice.

3. This section does not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control devices.

4. A person may place and maintain commercial advertising in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110, and a public authority may permit commercial advertising that has been placed in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110.

5. If a franchisee receives revenues from commercial advertising authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated

by the advertising authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

6. As used in this section ~~[, "monorail]~~ *:*

(a) "Monorail station" means:

~~[(a)]~~ *(1)* A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

~~[(b)]~~ *(2)* Any facilities or appurtenances within such a structure.

(b) "Street banner" has the meaning ascribed to it in section 15 of this act.

Sec. 63. NRS 706.386 is hereby amended to read as follows:

706.386 It is unlawful, except as otherwise provided in NRS ~~[373.117,]~~ 706.446, 706.453 and 706.745, *and section 29 of this act*, for any fully regulated common motor carrier to operate as a carrier of intrastate commerce and any operator of a tow car to perform towing services within this State without first obtaining a certificate of public convenience and necessity from the Authority.

Sec. 64. NRS 373.025, 373.026, 373.040, 373.050, 373.055, 373.113, 373.115, 373.116, 373.1161, 373.1163, 373.117, 373.118, 373.1183, 373.1185, 373.130, 373.143 and 373.146 are hereby repealed.

Sec. 65. This act becomes effective on July 1, 2009.

LEADLINES OF REPEALED SECTIONS

373.025 "Federal securities" defined.

373.026 "Fixed guideway" defined.

373.040 Regional transportation commission: Number, selection and terms of representatives.

373.050 Regional transportation commission: Organization; meetings.

373.055 Regional transportation commission: Designation as metropolitan planning organization; duties.

373.113 Powers of commission: Federal money and projects; conduct of hearings.

373.115 Powers of commission: Creation of fund to match federal money.

373.116 Powers of commission: Real and personal property; eminent domain; adoption of regulations.

373.1161 Powers of commission: Capacity to sue and be sued; preparation and approval of budgets; plans for transportation; insurance.

373.1163 Powers of commission: Security; employment of personnel.

373.117 Authority of commission and certain counties and cities to establish or operate public transit system; special procedures for procurement and requirements for development of fixed guideway system.

373.118 Powers of commission: Parking facilities or parking spaces for general public and public employees.

373.1183 Counties whose population is 400,000 or more: Construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation.

373.1185 Counties whose population is 400,000 or more: Advisory committee concerning construction, installation and maintenance of benches, shelters and transit stops.

373.130 Payment of cost of project by issuance of revenue bonds and other securities and direct distribution from regional street and Highway Fund.

373.143 Annual report to Department by commission in county which has population of less than 100,000.

373.146 Commission in county whose population is 400,000 or more to cooperate with local air pollution control board and regional planning coalition; prerequisites to adoption or amendment by commission of plan, policy or program.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 245.

Motion carried by a constitutional majority.

Bill ordered enrolled.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Wiener, Woodhouse and Nolan as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 54.

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

Senate in recess at 8:13 p.m.

SENATE IN SESSION

At 8:36 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 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. 41, 73, 103.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 31, Amendments Nos. 725, 900; Senate Bill No. 173, Amendment No. 734; Senate Bill No. 183, Amendment No. 751, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 771 to Assembly Bill No. 140; Senate Amendment No. 822 to Assembly Bill No. 492.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 218, Assembly Amendments Nos. 742, 881, and requests a conference, and appointed Assemblymen Kihuen, Atkinson and Woodbury as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 305, Assembly Amendment No. 804, and requests a conference, and appointed Assemblymen Parnell, Mastroluca and Hardy as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 389, Assembly Amendment No. 760, and requests a conference, and appointed Assemblymen Denis, Dondero Loop and Stewart as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the Conference Committee concerning Assembly Bill No. 463.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

GENERAL FILE AND THIRD READING

Senate Joint Resolution No. 10.

Resolution read third time.

Roll call on Senate Joint Resolution No. 10:

YEAS—9.

NAYS—Amodei, Breeden, Care, Carlton, Copening, Horsford, Lee, Nolan, Parks, Wiener, Woodhouse—11.

EXCUSED—Coffin.

Senate Joint Resolution No. 10 having failed to receive a constitutional majority, Mr. President declared it lost.

Assembly Bill No. 60.

Bill read third time.

Roll call on Assembly Bill No. 60:

YEAS—20.

NAYS—None.

EXCUSED—Coffin.

Assembly Bill No. 60 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 287.

Bill read third time.

Roll call on Assembly Bill No. 287:

YEAS—20.

NAYS—None.

EXCUSED—Coffin.

Assembly Bill No. 287 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 313.

Bill read third time.

Roll call on Assembly Bill No. 313:

YEAS—8.

NAYS—Amodei, Cegavske, Hardy, Lee, Mathews, McGinness, Nolan, Rhoads, Schneider, Townsend, Washington, Woodhouse—12.

EXCUSED—Coffin.

Assembly Bill No. 313 having failed to receive a constitutional majority, Mr. President declared it lost.

Assembly Bill No. 319.

Bill read third time.

Roll call on Assembly Bill No. 319:

YEAS—12.

NAYS—Amodei, Cegavske, Hardy, McGinness, Raggio, Rhoads, Townsend, Washington—8.

EXCUSED—Coffin.

Assembly Bill No. 319 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 550.

Bill read third time.

Remarks by Senators Carlton, Lee, McGinness, Hardy and Cegavske.

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

SENATOR CARLTON:

I would like more information on this bill.

SENATOR LEE:

Assembly Bill No. 550 requires the Administrator of the Division of State Parks to establish a Commercial Wedding Program at each state park within its jurisdiction. The measure requires the Administrator to collect $150 for weddings that are held at the park under the program. The fees collected under the Program must be deposited in the State's General Fund to the credit of the Division. However, fees collected in excess of the amount authorized must be deposited in an account for maintenance of state parks.

This allows state parks to negotiate with commercial-wedding people who want to hire someone to do a theme wedding. This bill was specific to the Valley of Fire State Park, but we have the Lake Tahoe State Park and Spring Mountain State Park who have requests for these commercial weddings. This is a way that state parks can take what they do so well in maintaining property and allow others to enjoy it at their wedding.

SENATOR CARLTON:

Can a family do this? If we want to have a wedding in a state park, will the park allow us the same privilege?

SENATOR LEE:

This establishes a Commercial Wedding Program. If someone wants to take their minister to the picnic area of a state park to perform their wedding, that is no problem. However, if you want to designate a large area with guests and a barbeque, you would be precluded from doing that unless you have a commercial vendor.

SENATOR CARLTON:

That is where my concerns lie. We are giving an advantage to commercial-wedding businesses that are denied to families. State parks belong to everyone. If we are going to open

something up for one group of people, we should allow families the same option of reserving that spot. When I go to the park, I do not want to be followed by limousines. There are limousines on the Strip and other places. When I go to Valley of Fire State Park, I do not want to feel like I am driving by a lot of wedding chapels.

SENATOR MCGINNESS:

I made this a motion to expand this to all state parks in committee, but I thought we were authorizing them to establish this, not requiring. I have concerns about requiring each state park to do this.

SENATOR LEE:

Requiring only means allowing. This is just to set up the process so that if someone wants to come to a state park, this will allow them to set up a program where they could commercially establish a program that people could use. In southern Nevada, we have people who come from different parts of the United States and the world who want to get married there. I ask the body to vote for this bill.

SENATOR HARDY:

I have the same concerns as the Senator from Fallon. What is the thought process behind requiring this? How is requiring something the same as allowing it?

SENATOR LEE:

Requiring means to set up a format and to be prepared if someone asks if they can come to the park to get married. The bill states, "To require the Administrative Division of State Parks to establish a Commercial Wedding Program." The Administrator is going to be certain his insurance is covered in all of the state parks and that all of the things that happen at one state park happen at the others. This sets some parameters so that it is fluid throughout the State.

SENATOR HARDY:

We are not talking about the expenditure of funds to build pavilions. We are talking about requiring them to set up a process if someone wishes to be married in one of our state parks that they will have the ability to do that.

SENATOR LEE:

Yes. Just the location.

SENATOR CEGAVSKE:

On page 4, it states, "costs of $25,000 or more and other emergency repairs have to be approved by the Director of the IFC." What does that have to do with all of this?

SENATOR LEE:

That is in existing language. That was not part of the bill we heard.

Roll call on Assembly Bill No. 550:

YEAS—9.

NAYS—Carlton, Cegavske, Copening, Horsford, Mathews, McGinness, Rhoads, Schneider, Townsend, Washington, Wiener—11.

EXCUSED—Coffin.

Assembly Bill No. 550 having failed to receive a two-thirds majority, Mr. President declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Joint Resolution No. 6 be taken from the General File and be rereferred to the Committee on Finance.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Assembly Bill No. 463, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 758 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 1, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Restricts a department, division or other agency of this State from employing a person as a consultant. (BDR 23-1057)"

"AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; providing certain exceptions; requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill restricts a department, division or other agency of this State from employing a person as a consultant for the agency. Section 1 requires the Interim Finance Committee to approve the employment of a consultant under certain circumstances and limits the approval of the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State and at least 1 year has not expired before the person is employed as a consultant. Section 1 also requires each board, commission, school district and institution of the Nevada System of Higher Education to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant employed by the entity. Section 1 also requires that contracts with temporary employment services be awarded by open competitive bidding. Section 1 further provides that certain exceptions apply for the employment of persons for a period of less than 4 months under certain conditions and for the employment of certain persons by the Department of Transportation for transportation projects that are ~~[solely]~~ federally funded. Section 2.5 of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency. Section 2.7 of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.

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

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a department, division or other agency of this State shall not employ, by contract or otherwise, a person to provide services as a consultant for the agency if:

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than 1 year has expired since the termination of his employment with the State;

(c) Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years; or

(d) The person is employed by the Department of Transportation for a transportation project that is ~~[solely]~~ federally funded and the term of the contract is for more than 4 years, or is amended or otherwise extended beyond 4 years,

➥ unless, before the person is employed by the agency, the Interim Finance Committee approves the employment of the person.

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The Interim Finance Committee shall not approve the employment of a consultant pursuant to paragraph (b) of subsection 1 unless the Interim Finance Committee determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to employ the person as a consultant.

3. A department, division or other agency of this State may employ a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the Interim Finance Committee if the term of employment is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the employment. If a department, division or agency employs a person pursuant to this subsection, the department, division or agency shall include in the report to the Interim Finance Committee pursuant to subsection 4 a description of the emergency.

4. Except as otherwise provided in subsection 7, a department, division or other agency of this State shall report to the Interim Finance Committee whenever it employs, by contract or otherwise, a person to provide services as a consultant for the agency who is a former employee of a department, division or other agency of this State.

5. Except as otherwise provided in subsection 7, a department, division or other agency of this State shall not contract with a temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

6. Each board or commission of this State, each school district in this State and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission, school district or institution;

(b) The purpose for which the board, commission, school district or institution employs each consultant;

(c) The amount of money or other remuneration received by each consultant from the board, commission, school district or institution; and

(d) The length of time each consultant has been employed by the board, commission, school district or institution.

7. The provisions of subsections 1 to 5, inclusive, do not apply to the:

(a) Nevada System of Higher Education or a board or commission of this State.

(b) Employment of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is ~~[solely]~~ federally funded.

8. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.

Sec. 2. NRS 218.6827 is hereby amended to read as follows:

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

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

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

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

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

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

Sec. 2.5. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; ~~[and]~~

(b) *Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and*

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 2.7. 1. The Legislative Auditor shall conduct an audit concerning the use by agencies of the Executive Branch of State Government of contracts with consultants. The State Controller shall provide such information as is requested by the Legislative Auditor to assist with the completion of the audit.

2. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a contract of employment specified in that section that is entered into or renewed before the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

VALERIE WIENER	DEBBIE SMITH
JOYCE WOODHOUSE	APRIL MASTROLUCA
WARREN B. HARDY II	LYNN D. STEWART
Senate Conference Committee	*Assembly Conference Committee*

Senator Wiener moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 463.

Remarks by Senator Wiener.

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

This measure restricts a department, division or other agency of this State from employing a person as a consultant.

Motion carried by a constitutional majority.

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

Motion carried.

Senate in recess at 8:52 p.m.

SENATE IN SESSION

At 8:55 p.m.

President Krolicki presiding.

Quorum present.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 26, 53, 63, 128, 160, 162, 195, 197, 228, 231, 234, 251, 253, 276, 278, 317, 378, 408, 409, 415; Senate Joint Resolutions Nos. 2, 3, 4, 9; Senate Joint Resolution No. 2 of the 74th Session; Senate Resolutions Nos. 9, 10; Assembly Bills Nos. 13, 87, 101, 124, 146, 186, 205, 243, 296, 325, 335, 360, 361, 370, 458, 471, 491, 496, 500, 563.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the floor of the Senate Chamber for this day was extended to Gage Fiorentino and Ellie Fiorentino.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to the following students and teachers from the Lemmon Valley Elementary School: Dustin Ammons, Kimberly Anukam, Austin Costales, Wyatt Dozier, Makayla Halverson, Daniel Hanks, Brooke Heater, Ryan Hinkson, Austin Jones, Nicholas Karpchuk, Morelia Martinez, Rubi Mata, Kristopher Mock, Albert Morris, Eduardo Ontiveros, Kayla Pickett, Valerie Quam, Moaiz Shiekh, Brandy Spencer, Nicholas

Spencer, Henry Stewart, Anthony Vasquez, Michael Erlendson, Anthony Esposito, Yessenia Estrada, Brandon Frank, Alan Graham, Selestiana Arias, Cody Bailey, Mackenzie Barrett, Mackenzie Beck, Heriberto Benitez-Camacho, Martin Coria, Manuel Corona Moreno, Anna Destefano, Justin Dozier, Kyla Duggins, Mireya Duron-Rodriquez, Johnathan Keates, Austin Mason, Anthony Pena, Jesus Perez, Alfredo Rangel, Ixcel Sanchez Chavez, Crista Seiss Lilly, Tyler Simon, Tamaje Edwards, Rochelle Faulkner, Heidee Gifford, Richard Goormastic, Kayla Jensen; teachers: Mr. Edwards and Mrs. Herrington.

Senator Horsford moved that the Senate adjourn until Saturday, May 23, 2009, at 10:30 a.m.

Motion carried.

Senate adjourned at 8:57 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate