

The
Journal of the
Senate

OF THE
SEVENTY-SIXTH SESSION

OF THE
LEGISLATURE OF THE
STATE OF NEVADA

2011



BEGUN ON MONDAY, THE SEVENTH DAY OF FEBRUARY,
AND
ENDED ON MONDAY, THE SIXTH DAY OF JUNE

VOLUME 2

THE SIXTY-EIGHTH DAY—THE SEVENTY-FIFTH DAY

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THE SIXTY-EIGHTH DAY

CARSON CITY (Friday), April 15, 2011

Senate called to order at 10:43 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Peggy Locke.

Mathew 21:8-9 (New King James)

And a very great multitude spread their clothes on the road; others cut down branches from the trees and spread them on the road. Then the multitudes who went before and those who followed cried out saying: "Hosanna to the Son of David!" Blessed is He who comes in the Name of the Lord!" Hosanna in the highest"

O most high God, we give You praise as we commit this day into Your hands. We ask for guidance and direction, for wisdom and for discernment. May all that is accomplished in these days be according to Your will and purposes.

We pray for our troops in harms way – protect and give them great success. May they look to You for faith and courage. We also ask for Your comfort and strength for all those touched by the recent loss of our two beloved Carson High Students, Stephen and Keegen.

O Lord give us help from trouble, for the help of man is useless. But through God we will do valiantly, it is He who shall tread down our enemies. You are the resurrection and the life! And it is in Your most holy and precious Name we pray.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President and Assistant Secretary of the Senate be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES*Mr. President:*

Your Committee on Commerce, Labor and Energy, to which was re-referred Senate Bill No. 336, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and re-refer to the Committee on Finance.

MICHAEL A. SCHNEIDER, *Chair**Mr. President:*

Your Committee on Health and Human Services, to which was referred Senate Bill No. 209, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which were referred Senate Bills Nos. 370, 371, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

ALLISON COPENING, *Chair**Mr. President:*

Your Committee on Judiciary, to which was referred Senate Bill No. 187, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 304, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 8, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and re-refer to the Committee on Finance.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 446, 468, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

MARK A. MANENDO, *Chair*

Mr. President:

Your Committee on Revenue, to which was referred Senate Bill No. 432, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Revenue, to which were referred Senate Bills Nos. 46, 255, 374, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and re-refer to the Committee on Finance.

SHEILA LESLIE, *Chair*

WAIVERS AND EXEMPTIONS WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senate Committee on Judiciary

For: Senate Bill No. 185.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, April 15, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

A Waiver requested by Senate Committee on Finance

For: Senate Bill No. 316.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, April 15, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

A Waiver requested by Senate Committee on Revenue

For: Senate Bill No. 491.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

A Waiver requested by Senate Committee on Revenue
For: Senate Bill No. 492.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

A Waiver requested by Senate Committee on Revenue
For: Senate Joint Resolution No. 15.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

A Waiver requested by Assemblywoman Pierce
For: Assembly Bill No. 336.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

A Waiver requested by Assemblywoman Pierce
For: Assembly Bill No. 428.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

A Waiver requested by Assemblyman Brooks
For: Assembly Bill No. 446.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

A Waiver requested by Senate Committee on Commerce, Labor and Energy

For: 58-1280

To Waive:

Subsection 2 of Joint Standing Rule No. 14.

Subsection 1 of Joint Standing Rule No. 14.2.

Subsection 1 of Joint Standing Rule No. 14.3.

Has been granted effective: Thursday, April 14, 2011.

STEVEN A. HORSFORD

Senate Majority Leader

JOHN OCEGUERA

Speaker of the Assembly

NOTICE OF EXEMPTION

April 15, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 60.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 362, 369, 370, 371, 374, 379, 380, 383, 386, 387, 389, 392, 404, 407, 415, 416, 418, 420, 490, 491, 492, 493, 494.

MARK KRMPOTIC

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Parks moved that Senate Bill No. 8 be re-referred to the Committee on Finance.

Motion carried.

Senator Leslie moved that Senate Bills Nos. 46, 255 be re-referred to the Committee on Finance.

Motion carried.

Senator Schneider moved that Senate Bill No. 336 be re-referred to the Committee on Finance.

Motion carried.

Senator Copening moved that Senate Bills Nos. 370, 371 be re-referred to the Committee on Finance.

Motion carried.

Senator Leslie moved that Senate Bill No. 374 be re-referred to the Committee on Finance.

Motion carried.

Senator Manendo moved that Senate Bills Nos. 446, 468 be re-referred to the Committee on Finance.

Motion carried.

Senator Horsford moved that Senate Bill No. 271 be taken from the Second Reading File and re-referred to the Committee on Finance.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 10, 24, 112, 127, 152, 159, 180, 196, 198, 213, 284, 368; Assembly Bills Nos. 30, 144, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 26.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 7.

"SUMMARY—Revises various provisions relating to judicial administration. (BDR 14-323)"

"AN ACT relating to judicial administration; revising provisions governing the appointment of an attorney in ~~criminal and~~ juvenile court proceedings; revising provisions governing the collection of delinquent fines, administrative assessments, fees, restitution and other payments imposed in criminal and juvenile court proceedings; **revising provisions concerning the approval or rejection of the recommendations of a master of the juvenile court;** authorizing a juvenile court to establish a restitution contribution fund; authorizing the waiver of all or part of any ~~fine or~~ community service imposed by the juvenile court in exchange for a monetary contribution to a restitution contribution fund; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a ~~court to appoint the public defender to represent a criminal defendant if: (1) the defendant has requested the appointment of an attorney to represent him or her; and (2) the court finds that the defendant is without means of employing an attorney and that representation of the defendant is required. (NRS 171.188)~~ In addition, existing law requires a juvenile court to appoint an attorney to represent a child who is alleged to be delinquent or in need of supervision under certain circumstances. If the parent or guardian of a child for whom the juvenile court has appointed an attorney is not indigent, the parent or guardian is required to pay the reasonable fees and expenses of the attorney. If the parent or guardian of the child is indigent, the juvenile court may order the parent or guardian to reimburse the county or State in accordance with the parent or guardian's ability to pay. (NRS 62D.030)

~~[Section 1 of this bill provides standards for determining whether a criminal defendant is entitled to have a public defender appointed to represent him or her. Under section 1, the court is required to appoint the public defender to represent a criminal defendant if the defendant: (1) receives public assistance, resides in public housing, has an income that is less than 200 percent of the federally designated poverty standard, is incarcerated or is housed in a public or private mental health facility; or (2) is financially unable, without substantial hardship to the defendant or his or her dependents, to obtain qualified and competent legal counsel.]~~ Section 7 of this bill provides ~~[similar]~~ standards for determining whether the parent or guardian of a child for whom the juvenile court has appointed an attorney is required to pay for such legal representation or reimburse the county or State for such legal representation. **Under section 7, the juvenile court is**

required to find that the parent or guardian of a child is indigent if the parent or guardian: (1) receives public assistance, resides in public housing, has an income that is less than 200 percent of the federally designated poverty standard, is incarcerated or is housed in a public or private mental health facility; or (2) is financially unable, without substantial hardship to the parent or guardian or his or her dependents, to obtain qualified and competent legal counsel.

Existing law authorizes a court to impose a collection fee for certain delinquent fines, administrative assessments, fees and restitution and authorizes the court to take certain actions to collect such delinquent payments. (NRS 176.064) **Section 2** of this bill authorizes the court to enter a civil judgment for the amount of any unpaid fines, administrative assessments, fees and restitution imposed against a criminal defendant. Under **section 2**, the civil judgment may be enforced and renewed in the same manner as a judgment for money rendered in a civil action, and a person who is not indigent and who has not satisfied the civil judgment within a certain period may be punished for contempt. **Section 5** of this bill authorizes a juvenile court to impose the same collection fees for delinquent fines, administrative assessments, fees, restitution and certain other payments as a court may impose against a criminal defendant. **Section 5** authorizes a juvenile court to enter a civil judgment against a ~~person who is not a minor~~ **child or the parent or guardian of the child** for any delinquent fines, administrative assessments, fees, restitution or other payments required in a juvenile court proceeding and authorizes certain collection activities if the juvenile court has entered such a civil judgment. Moreover, if the juvenile court has entered a civil judgment against a person who is not indigent and the ~~person has not satisfied the judgment within a certain period,~~ **juvenile court determines that the person has failed to make reasonable efforts to satisfy the civil judgment,** **section 5** authorizes the juvenile court to punish the person for contempt. **Section 5** also authorizes the court to which the juvenile court has transferred **or certified** a case to include satisfaction of a civil judgment entered by the juvenile court in any sentence imposed by that court.

Section 5.5 of this bill revises the procedure by which a judge of the juvenile court approves or rejects the recommendations of a master of the juvenile court or directs a hearing de novo before the juvenile court.

Section 9 of this bill authorizes a juvenile court to establish a restitution contribution fund. Under **section 9**, all expenditures from the restitution contribution fund: (1) must be authorized by the juvenile court; and (2) must provide restitution to victims of unlawful acts committed by children or, if the source of the money is a grant, gift, donation, bequest or devise, must be made in accordance with the terms of the grant, gift, donation, bequest or devise. **Section 10** of this bill authorizes the juvenile court to waive all or part of any ~~fine or~~ community service imposed **against a child** by the juvenile court in exchange for a monetary contribution to the restitution

contribution fund and requires the juvenile court to set forth in an administrative order that is available for public inspection a formula for determining the amount of a contribution to the fund and the manner in which the contribution must be made. **Section 6** of this bill authorizes an agreement for the informal supervision of a child to require the child to make a monetary contribution to a restitution contribution fund.

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

Section 1. ~~NRS 171.188 is hereby amended to read as follows:~~

~~171.188 1. Any defendant charged with a public offense who is an indigent may, by oral statement to the district judge, justice of the peace, municipal judge or master, request the appointment of an attorney to represent the defendant.~~

~~2. The request must be accompanied by the defendant's affidavit, which must state:~~

- ~~(a) That the defendant is without means of employing an attorney; and~~
- ~~(b) Facts with some particularity, definiteness and certainty concerning the defendant's financial disability.~~

~~3. The district judge, justice of the peace, municipal judge or master shall forthwith consider the application and shall make such further inquiry as he or she considers necessary. If the district judge, justice of the peace, municipal judge or master:~~

~~(a) Finds that the defendant is without means of employing an attorney [-] according to the criteria set forth in subsection 4; and~~

~~(b) Otherwise determines that representation is required,~~
~~the judge, justice or master shall designate the public defender of the county or the State Public Defender, as appropriate, to represent the defendant. If the appropriate public defender is unable to represent the defendant, or other good cause appears, another attorney must be appointed.~~

~~4. For the purposes of paragraph (a) of subsection 3, a district judge, justice of the peace, municipal judge or master shall find that a defendant is without means of employing an attorney if:~~

- ~~(a) The defendant:~~
 - ~~(1) Receives public assistance, as that term is defined in NRS 422A.065;~~
 - ~~(2) Resides in public housing, as that term is defined in NRS 315.021;~~
 - ~~(3) Has a household income that is less than 200 percent of the federally designated level signifying poverty;~~
 - ~~(4) Is incarcerated pursuant to a sentence imposed upon conviction of a crime; or~~
 - ~~(5) Is housed in a public or private mental health facility; or~~

~~(b) After considering the particular circumstances of the defendant, including, without limitation, the seriousness of the charges against the defendant, the monthly expenses of the defendant and the rates for attorneys in the area in which the court is located, the judge, justice or master determines that the defendant is financially unable, without substantial~~

~~hardship to the defendant or his or her dependents, to obtain qualified and competent legal counsel.~~

~~5. The county or State Public Defender must be reimbursed by the city for costs incurred in appearing in municipal court. The county shall reimburse the State Public Defender for costs incurred in appearing in Justice Court. If a private attorney is appointed as provided in this section, the private attorney must be reimbursed by the county for appearance in Justice Court or the city for appearance in municipal court in an amount not to exceed \$75 per case. (Deleted by amendment.)~~

Sec. 2. NRS 176.064 is hereby amended to read as follows:

176.064 1. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:

(a) Not more than \$100, if the amount of the delinquency is less than \$2,000.

(b) Not more than \$500, if the amount of the delinquency is \$2,000 or greater, but is less than \$5,000.

(c) Ten percent of the amount of the delinquency, if the amount of the delinquency is \$5,000 or greater.

2. A state or local entity that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take any or all of the following actions:

(a) Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.

(b) Request that the court take appropriate action pursuant to subsection 3.

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.

3. The court may, on its own motion or at the request of a state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution, take any or all of the following actions, in the following order of priority if practicable:

(a) *Enter a civil judgment for the amount due in favor of the state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution. A civil judgment entered pursuant to this paragraph may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money*

rendered in a civil action. If the court has entered a civil judgment pursuant to this paragraph and the person against whom the judgment is entered is not indigent and has not satisfied the judgment within the time established by the court, the person may be punished for contempt.

(b) Request that a prosecuting attorney undertake collection of the delinquency, including, without limitation, the original amount *of the civil judgment entered pursuant to paragraph (a)* and the collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.

~~((b))~~ (c) Order the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of the defendant's driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

~~((c))~~ (d) For a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

4. Money collected from a collection fee imposed pursuant to subsection 1 must be distributed in the following manner:

(a) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a municipal court, the money must be deposited in a special fund in the appropriate city treasury. The city may use the money in the fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.

(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a justice court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.

(c) Except as otherwise provided in paragraph (d), if the money is collected by a state entity, the money must be deposited in an account, which

is hereby created in the State Treasury. The Court Administrator may use the money in the account only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution in this State.

(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury, whichever is appropriate, to be used only for the purposes set forth in paragraph (a), (b) or (c) of this subsection.

Sec. 3. NRS 176.065 is hereby amended to read as follows:

176.065 1. Except as otherwise provided in subsection 2, when a person is sentenced to both fine and imprisonment, or to pay a forfeiture in addition to imprisonment, the court may, pursuant to NRS 176.064, ***or section 5 of this act***, order that the person be confined in the state prison, the city or county jail or a detention facility, whichever is designated in the person's sentence of imprisonment, for an additional period of 1 day for each \$75 of the amount until the administrative assessment and the fine or forfeiture are satisfied or the maximum term of imprisonment prescribed by law for the offense committed has elapsed, whichever is earlier, but the person's eligibility for parole is governed only by the person's sentence of imprisonment.

2. The provisions of this section do not apply to indigent persons.

Sec. 4. NRS 176.075 is hereby amended to read as follows:

176.075 1. Except as otherwise provided in subsection 2, when a person is sentenced to pay a fine or forfeiture without an accompanying sentence of imprisonment, the court may, pursuant to NRS 176.064, ***or section 5 of this act***, order that the person be confined in the city or county jail or detention facility for a period of not more than 1 day for each \$75 of the amount until the administrative assessment and the fine or forfeiture are satisfied.

2. The provisions of this section do not apply to indigent persons.

Sec. 5. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this subsection, if, pursuant to this title, a child or a parent or guardian of a child is ordered by the juvenile court ~~f- or is otherwise required~~ to pay a fine, administrative assessment, fee or restitution or to make any other payment and the fine, administrative assessment, fee, restitution or other payment or any part of it remains unpaid after the time established by the juvenile court for its payment, the juvenile court may enter a civil judgment against the child or the parent or guardian of the child for the amount due in favor of the victim, the state or local entity to whom the amount is owed ~~f-The~~ or both. The juvenile court may not enter a civil judgment against a person who is a child unless the person has attained the age of 18 years ~~f-~~, the person is a child who is determined to be outside the jurisdiction of the juvenile court pursuant to

NRS 62B.330 or 62B.335, or the person is a child who is certified for proper criminal proceedings as an adult pursuant to NRS 62B.390.

2. Notwithstanding the termination of the jurisdiction of the juvenile court pursuant to NRS 62B.410 or the ~~completion of a~~ termination of any period of supervision or probation ~~imposed~~ ordered by the juvenile court, the juvenile court ~~which entered a civil judgment pursuant to subsection 1~~ retains jurisdiction over any civil judgment entered pursuant to subsection 1 and retains jurisdiction over the person against whom a civil judgment is entered pursuant to subsection 1. The juvenile court may supervise the civil judgment and take any of the actions authorized by ~~this section~~ the laws of this State.

3. A civil judgment entered pursuant to subsection 1 may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil action.

4. If the juvenile court enters a civil judgment pursuant to subsection 1, the person or persons against whom the judgment is issued is liable for a collection fee, to be imposed by the juvenile court at the time ~~it issues~~ the civil judgment is issued, of:

(a) Not more than \$100, if the amount of the judgment is less than \$2,000.

(b) Not more than \$500, if the amount of the judgment is \$2,000 or greater, but is less than \$5,000.

(c) Ten percent of the amount of the judgment, if the amount of the judgment is \$5,000 or greater.

5. In addition to attempting to collect the judgment through any other lawful means, a victim, a representative of the victim or a state or local entity that is responsible for collecting a civil judgment entered pursuant to subsection 1 may take any or all of the following actions:

(a) Report the judgment to reporting agencies that assemble or evaluate information concerning credit.

(b) Request that the juvenile court take appropriate action pursuant to subsection 6.

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the judgment and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 4, in accordance with the provisions of the contract.

6. ~~[A]~~ If the juvenile court ~~which has entered~~ determines that a child or the parent or guardian of a child against whom a civil judgment has been entered pursuant to subsection 1 has failed to make reasonable efforts to satisfy the civil judgment, the juvenile court may ~~on its own motion or at the request of the state or local entity that is responsible for collecting the judgment,~~ take any ~~for all~~ of the following actions: ~~in the following order of priority if practicable.~~

~~(a) Request that the district attorney undertake collection of the judgment, including, without limitation, the original amount and the collection fee, by attachment or garnishment of the judgment debtor's property, wages or other money receivable.~~

~~(b) Order the suspension of the driver's license of a judgment debtor. If a judgment debtor does not possess a driver's license, the juvenile court may prohibit the judgment debtor from applying for a driver's license for a specified period. child for a period not to exceed 1 year. If the judgment debtor child is already the subject of a court order suspending for delaying the issuance of the driver's license of the judgment debtor, child, the juvenile court may order the additional suspension for delay, as appropriate, to apply consecutively with the previous order. At the time the juvenile court issues an order suspending the driver's license of a judgment debtor child pursuant to this paragraph, the juvenile court shall require the judgment debtor child to surrender to the juvenile court all driver's licenses then held by the judgment debtor child. The juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a judgment debtor to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the judgment debtor's driving record. of a child, but such a suspension must not be considered for the purpose of rating or underwriting.~~

(b) If a child does not possess a driver's license, the juvenile court may prohibit the child from applying for a driver's license for a period not to exceed 1 year. If the child is already the subject of a court order delaying the issuance of a license to drive, the juvenile court may order any additional delay in the ability of the child to apply for a driver's license to apply consecutively with the previous order. At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a child to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order.

(c) If the civil judgment was issued for a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

(d) Enter a finding of contempt against a child or the parent or guardian of a child and punish the child or the parent or guardian for contempt as provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this subsection.

7. Money collected from a collection fee imposed pursuant to subsection 4 must be deposited and used in the manner set forth in subsection 4 of NRS 176.064.

8. ~~{Except as otherwise provided in this subsection, if the juvenile court has entered a civil judgment pursuant to subsection 1 and the person against whom the judgment is entered has not satisfied the judgment within the time established by the juvenile court, the person may be punished for contempt as provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this subsection.~~

~~9. If the juvenile court:~~

(a) Enters a civil judgment pursuant to subsection 1; and

(b) ~~{Pursuant to this title:~~

~~(1) Transfers {to another court the case under which the judgment was entered;} jurisdiction over the child pursuant to NRS 62B.330 or 62B.335~~
or

~~{(2) Certifies} certifies the child {involved in that case} for proper criminal proceedings as an adult {pursuant to NRS 62B.390,~~
↳ ~~the civil judgment must include all unpaid fines, administrative assessments, fees, restitution or other payments ordered by the juvenile court which are associated with any other adjudications of delinquency by the juvenile court and the court to which the case is transferred {may} or certified shall include satisfaction of {the judgment} any civil judgments against the child by the juvenile court in any sentence imposed on the child {whose case was transferred}.~~

Sec. 5.5. NRS 62B.030 is hereby amended to read as follows:

62B.030 1. The juvenile court may order a master of the juvenile court to:

- (a) Swear witnesses.
- (b) Take evidence.
- (c) Make findings of fact and recommendations.
- (d) Conduct all proceedings before the master of the juvenile court in the same manner as a district judge conducts proceedings in a district court.

2. Not later than 10 days after the evidence before a master of the juvenile court is closed, the master shall file with the juvenile court:

- (a) All papers relating to the case;
- (b) Written findings of fact; and
- (c) Written recommendations.

3. A master of the juvenile court shall provide to the parent or guardian of the child, the attorney for the child, the district attorney, and any other person concerned, written notice of:

- (a) The master's findings of fact;
- (b) The master's recommendations;
- (c) The right to object to the master's recommendations; and
- (d) The right to request a hearing de novo before the juvenile court as provided in subsection ~~{4} 5.~~

4. After reviewing the recommendations of a master of the juvenile court and any objection to the master's recommendations, the **judge of the** juvenile court shall ~~the~~ **sign a written order to:**

(a) Approve the master's recommendations, in whole or in part, and order the recommended disposition; **or**

(b) Reject the master's recommendations, in whole or in part, and order such relief as may be appropriate. ~~the~~ **or**

~~(c) Direct a~~

5. An order issued pursuant to subsection 4 must provide notice that:

(a) The approval or rejection of the master's recommendations will not become effective until the judge of the juvenile court signs a written order approving or rejecting the master's recommendations which must not be earlier than 6 days after the master provides notice of the master's recommendations pursuant to subsection 3; and

(b) A hearing de novo before the juvenile court may be ordered, and the master's recommendations will not be binding, if, not later than 5 days after the master provides notice of the master's recommendations, a person who is entitled to such notice files with the juvenile court a request for a hearing de novo before the juvenile court.

~~§~~ **6.** A recommendation of a master of the juvenile court is not effective until expressly approved by the juvenile court as evidenced by the signature of a judge of the juvenile court.

Sec. 6. NRS 62C.210 is hereby amended to read as follows:

62C.210 1. An agreement for informal supervision may require the child to:

(a) Perform community service, ~~the~~ provide restitution to any victim of the acts for which the child was referred to the probation officer ~~the~~ **or make a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act;**

(b) Participate in a program of restitution through work that is established pursuant to NRS 62E.580 if the child:

(1) Is 14 years of age or older;

(2) Has never been found to be within the purview of this title for an unlawful act that involved the use or threatened use of force or violence against a victim and has never been found to have committed such an unlawful act in any other jurisdiction, unless the probation officer determines that the child would benefit from the program;

(3) Is required to provide restitution to a victim; and

(4) Voluntarily agrees to participate in the program of restitution through work; ~~the~~

(c) Complete a program of cognitive training and human development pursuant to NRS 62E.220 if:

(1) The child has never been found to be within the purview of this title; and

(2) The unlawful act for which the child is found to be within the purview of this title did not involve the use or threatened use of force or violence against a victim; or

(d) Engage in any combination of the activities set forth in this subsection.

2. If the agreement for informal supervision requires the child to participate in a program of restitution through work or complete a program of cognitive training and human development, the agreement may also require any or all of the following, in the following order of priority if practicable:

(a) The child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay the costs associated with the participation of the child in the program, including, but not limited to:

(1) A reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property during those periods in which the child participates in the program or performs work; and

(2) In the case of a program of restitution through work, for industrial insurance, unless the industrial insurance is provided by the employer for which the child performs the work; or

(b) The child to work on projects or perform community service for a period that reflects the costs associated with the participation of the child in the program.

Sec. 7. NRS 62D.030 is hereby amended to read as follows:

62D.030 1. If a child is alleged to be delinquent or in need of supervision, the juvenile court shall advise the child and the parent or guardian of the child that the child is entitled to be represented by an attorney at all stages of the proceedings.

2. If a parent or guardian of a child is indigent, the parent or guardian may request the appointment of an attorney to represent the child pursuant to the provisions in NRS 171.188.

3. Except as otherwise provided in this section, the juvenile court shall appoint an attorney for a child if the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child.

4. A child may waive the right to be represented by an attorney if:

(a) A petition is not filed and the child is placed under informal supervision pursuant to NRS 62C.200; or

(b) A petition is filed and the record of the juvenile court shows that the waiver of the right to be represented by an attorney is made knowingly, intelligently, voluntarily and in accordance with any applicable standards established by the juvenile court.

5. Except as otherwise provided in **subsection 6** and NRS 424.085, if the juvenile court appoints an attorney to represent a child and:

(a) The parent or guardian of the child is not indigent, the parent or guardian shall pay the reasonable fees and expenses of the attorney.

(b) The parent or guardian of the child is indigent, the juvenile court may order the parent or guardian to reimburse the county or State in accordance with the ability of the parent or guardian to pay.

6. *For the purposes of paragraph (b) of subsection 5, the juvenile court shall find that the parent or guardian of the child is indigent if:*

(a) The parent or guardian:

(1) Receives public assistance, as that term is defined in NRS 422A.065;

(2) Resides in public housing, as that term is defined in NRS 315.021;

(3) Has a household income that is less than 200 percent of the federally designated level signifying poverty;

(4) Is incarcerated pursuant to a sentence imposed upon conviction of a crime; or

(5) Is housed in a public or private mental health facility; or

(b) After considering the particular circumstances of the parent or guardian, including, without limitation, the seriousness of the charges against the child, the monthly expenses of the parent or guardian and the rates for attorneys in the area in which the juvenile court is located, the juvenile court determines that the parent or guardian is financially unable, without substantial hardship to the parent or guardian or his or her dependents, to obtain qualified and competent legal counsel.

7. Each attorney, other than a public defender, who is appointed under the provisions of this section is entitled to the same compensation and expenses from the county as is provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with criminal offenses.

Sec. 8. Chapter 62E of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. 1. *The juvenile court may establish, with the county treasurer as custodian, a special fund to be known as the restitution contribution fund.*

2. The juvenile court may apply for and accept grants, gifts, donations, bequests or devise which the director of juvenile services shall deposit with the county treasurer for credit to the fund.

3. The fund must be a separate and continuing fund, and no money in the fund reverts to the general fund of the county at any time. The interest earned on the money in the fund, after deducting any applicable charges, must be credited to the fund.

4. The juvenile court shall:

(a) Expend money from the fund only to provide restitution to a victim of an unlawful act committed by a child; and

(b) If the source of the money is a grant, gift, donation, bequest or devise, expend the money, to the extent permitted by law, in accordance with the terms of the grant, gift, donation, bequest or devise.

5. The juvenile court must authorize any expenditure from the fund before it is made.

Sec. 10. 1. If a juvenile court has established a restitution contribution fund pursuant to section 9 of this act:

(a) In exchange for a monetary contribution to the restitution contribution fund, the juvenile court may, in its discretion, waive all or part of ~~f~~:

~~(1) A fine imposed against a child, the parent or guardian of a child, or both;~~

~~(2) Any any community service which the juvenile court has ordered a child ~~f~~, the parent or guardian of a child, or both, to perform. ~~f~~; or~~

~~(3) Both;~~

~~(I) A fine imposed against a child, the parent or guardian of a child, or both; and~~

~~(II) Any community service which the juvenile court has ordered a child, the parent or guardian of a child, or both, to perform.]~~

(b) The juvenile court shall set forth in a written administrative order:

(1) A formula for determining the amount of the contribution to the restitution contribution fund pursuant to this section; and

(2) The manner in which the contribution must be made.

↪ The juvenile court shall make available for public inspection the written administrative order described in this paragraph.

2. The provisions of this section do not:

(a) Create a right on behalf of a child ~~for a parent or guardian of a child~~ to the waiver of all or part of any ~~[fine imposed against, or any]~~ community service to be performed by ~~f~~ the child ~~for the parent or guardian, or both,~~ in exchange for a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act; or

(b) Establish a basis for any cause of action against the State of Nevada or its officers or employees for denial of a waiver of all or part of any ~~[fine to be imposed against, or any]~~ community service to be performed by ~~f~~ a child ~~for a parent or guardian of a child, or both,~~ in exchange for a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act.

Sec. 11. NRS 62E.100 is hereby amended to read as follows:

62E.100 Except as otherwise provided in NRS 62E.100 to 62E.300, inclusive:

1. The provisions of NRS 62E.100 to 62E.300, inclusive, **and sections 9 and 10 of this act** apply to the disposition of a case involving any child who is found to be within the purview of this title.

2. In addition to any other orders or actions authorized or required by the provisions of this title, if a child is found to be within the purview of this title:

(a) The juvenile court may issue any orders or take any actions set forth in NRS 62E.100 to 62E.300, inclusive, **and sections 9 and 10 of this act** that the juvenile court deems proper for the disposition of the case; and

(b) If required by a specific statute, the juvenile court shall issue the appropriate orders or take the appropriate actions set forth in the statute.

Sec. 12. NRS 483.443 is hereby amended to read as follows:

483.443 1. The Department shall, upon receiving notification from a district attorney or other public agency collecting support for children pursuant to NRS 425.510 that a court has determined that a person:

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

(b) Is in arrears in the payment for the support of one or more children,
 ➤ send a written notice to that person that his or her driver's license is subject to suspension.

2. The notice must include:

(a) The reason for the suspension of the license;

(b) The information set forth in subsections ~~4-2~~ 5 and 6; and

(c) Any other information the Department deems necessary.

3. If a person who receives a notice pursuant to subsection 1 does not, within 30 days after receiving the notice, comply with the subpoena or warrant or satisfy the arrearage as required in NRS 425.510, the Department shall suspend the license without providing the person with an opportunity for a hearing.

4. The Department shall suspend immediately the license of a defendant if so ordered pursuant to NRS 176.064 ~~4-2~~ **or section 5 of this act.**

5. The Department shall reinstate the driver's license of a person whose license was suspended pursuant to this section if it receives:

(a) A notice from the district attorney or other public agency pursuant to NRS 425.510 that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to that section or from a district judge that a delinquency for which the suspension was ordered pursuant to NRS 176.064 **or section 5 of this act** has been discharged; and

(b) Payment of the fee for reinstatement of a suspended license prescribed in NRS 483.410.

6. The Department shall not require a person whose driver's license was suspended pursuant to this section to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of the reinstatement of the license.

Sec. 13. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his or her conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 5 of NRS 484B.653.

(2) A third or subsequent violation within 7 years of NRS 484C.110 or 484C.120.

(3) A violation of NRS 484C.110 or 484C.120 resulting in a felony conviction pursuant to NRS 484C.400 or 484C.410.

(4) A violation of NRS 484C.430 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430.

➤ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484B.657, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A second violation within 7 years of NRS 484C.110 or 484C.120 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484B.550.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484C.110 or 484C.120.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484C.110 or 484C.120 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a first violation within 7 years of NRS 484C.110 has been permitted to enter a program of treatment pursuant to NRS 484C.320, the Department shall reduce by one-half the period during which the person is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that the person was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484C.460 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his or her first such offense during the period of required use of the device.

(b) For 5 years, if it is his or her second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, *or section 5 of this act*, chapters 484A to 484E, inclusive, of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.

Sec. 14. 1. This act becomes effective upon passage and approval.

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

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

(b) Are in arrears in the payment for the support of one or more children,
 ➔ are repealed by the Congress of the United States.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment deletes Section 1, which would have defined an indigency standard for criminal cases, and instead requires the juvenile court to make certain findings that a parent or guardian of a child is indigent. It changes Section 10 concerning the restitution contribution fund by removing the reference to waiving a fine and leaving only the reference to waiving community service. The amendment adds a new section that alters the procedure for a juvenile court judge to approve or reject the findings and recommendations of a master, and clarifies the applicability and procedures relating to the civil judgment that can be imposed by the juvenile court.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 40.

Bill read second time.

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

Amendment No. 55.

"SUMMARY—Requires ~~{certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting}~~ **the State Public Works Board to adopt** regulations concerning the construction, maintenance, operation ~~for~~ **and** safety of **certain** buildings ~~for~~ **and** structures. (BDR 28-436)"

"AN ACT relating to real property; requiring ~~{certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting}~~ **the State Public Works Board to adopt** regulations concerning the construction, maintenance, operation ~~for~~ **and** safety of **certain** buildings and structures; **requiring the deputy manager for compliance and code enforcement to make recommendations to the Board concerning such regulations;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{Existing law requires the State Public Works Board to appoint a deputy manager for compliance and code enforcement, who serves as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government. (NRS 341.100)}~~ **Section 1 of this bill requires the State Public Works Board to adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government. Section 2 of this bill requires the deputy manager for compliance and code enforcement to make recommendations to the Board concerning these regulations.**

Existing law ~~{also}~~ authorizes or, in some cases, requires certain state agencies and officials to adopt regulations concerning the construction, maintenance, operation or safety of certain buildings or structures. (NRS 446.940, 449.250-449.430, 455C.110, 461.170, 472.040, 477.030) Specifically, these agencies and officials include the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden and the State Fire Marshal. ~~{Sections 3-10 of this bill require these state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting regulations concerning the construction, maintenance, operation or safety of buildings or structures in the State. Section 1 of this bill requires the deputy manager to consult with such an agency or official and to provide recommendations regarding how the agency or official's regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government, may be made consistent with other regulations which apply to such buildings or structures.}~~ **Sections 4-11 of this bill prohibit these state agencies and officials from adopting regulations which apply to the buildings and structures on property of this State or held in trust for any**

division of State Government and which conflict with the regulations adopted by the State Public Works Board.

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

Section 1. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Subject to the provisions of subsection 2, the Board shall adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government.

2. Before adopting any regulation pursuant to subsection 1, the Board shall consult with the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal, as applicable, if such state agency or official has authority to adopt similar regulations which apply to buildings and structures that are not on property of the State or held in trust for a division of the State Government.

~~{Section 1.}~~ **Sec. 2.** NRS 341.100 is hereby amended to read as follows:

341.100 1. The Board shall appoint a Manager and a deputy manager for compliance and code enforcement, each of whom must be approved by the Governor. The Manager and the deputy manager for compliance and code enforcement serve at the pleasure of the Board and the Governor.

2. The Manager, with the approval of the Board, shall appoint:

(a) A deputy manager for professional services; and

(b) A deputy manager for administrative, fiscal and constructional services.

↪ Each deputy manager appointed pursuant to this subsection serves at the pleasure of the Manager.

3. The Manager may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

4. The Manager and each deputy manager are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, the Manager and each deputy manager shall devote his or her entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

5. The Manager and the deputy manager for professional services must each be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS.

6. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of the principles of

administration and a working knowledge of the principles of engineering or architecture as determined by the Board.

7. The deputy manager for compliance and code enforcement must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the Board.

8. The Manager shall:

(a) Serve as the Secretary of the Board.
 (b) Manage the daily affairs of the Board.
 (c) Represent the Board before the Legislature.
 (d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.

(e) Make recommendations to the Board for the selection of architects, engineers and contractors.

(f) Make recommendations to the Board concerning the acceptance of completed projects.

(g) Submit in writing to the Board, the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:

(1) Changes in the scope of the design or construction of the project or any substantial component of the project which increase or decrease the total square footage or cost of the project by 10 percent or more;

(2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;

(3) Delays in the completion of the design or construction of the project or any substantial component of the project; or

(4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

9. The deputy manager for compliance and code enforcement shall ~~serve~~ :

(a) Serve as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government ~~and~~ ; *and*

(b) ~~Consult with an agency or official that is considering adoption of a regulation described in sections 3, 4 and 7 to 10, inclusive, of this act and provide~~ Provide recommendations regarding ~~how the regulation, as it applies to~~ regulations that the Board adopts pursuant to section 1 of this act concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any

division of the State Government . f, may be made consistent with other regulations which apply to such buildings or structures.

~~Sec. 2.]~~ **Sec. 3.** NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:

1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) Any law requiring competitive bidding; or

(b) Chapter 341 of NRS.

2. The person or entity that enters into the agreement for the actual construction, alteration, repair or remodeling of the improvement shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

3. The State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.

4. The provisions of:

(a) ~~{Subsection}~~ **Paragraph (b) of subsection 9** of NRS 341.100; and

(b) NRS 341.105,

↪ apply to the construction, alteration, repair or remodeling of the improvement.

~~{Sec. 3.]~~ **Sec. 4.** Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

~~{Before}~~ **Notwithstanding any provision of law to the contrary, the State Board of Health may not adopt any regulation concerning the construction, maintenance, operation or safety of a building, f, or structure for other property in, on property of this State f, the Board shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

~~Sec. 4.]~~ **or held in trust for any division of the State Government that conflicts with a regulation adopted pursuant to section 1 of this act.**

Sec. 5. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~{Before}~~ **Notwithstanding any provision of law to the contrary, the State Department may not adopt any regulation concerning the construction, maintenance, operation or safety of a building, f, or structure for other property in, on property of this State f, the State Department shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

~~Sec. 5.1~~ or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.

Sec. 6. NRS 449.250 is hereby amended to read as follows:

449.250 NRS 449.250 to 449.430, inclusive, **and section ~~44~~ 5 of this act** may be cited as the Nevada Health Facilities Assistance Act.

~~Sec. 6.1~~ **Sec. 7.** NRS 449.260 is hereby amended to read as follows:

449.260 As used in NRS 449.250 to 449.430, inclusive ~~44~~ , **and section ~~44~~ 5 of this act:**

1. "Community mental health center" means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of patients with mental illness, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community in or near which the facility is situated.

2. "Construction" includes the construction of new buildings, modernization, expansion, remodeling and alteration of existing buildings, and initial equipment of such buildings, including medical transportation facilities, and includes architects' fees, but excludes the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of the land.

3. "Facility for persons with mental retardation" means a facility specially designed for the diagnosis, treatment, education, training or custodial care of persons with mental retardation, including facilities for training specialists and sheltered workshops for persons with mental retardation, but only if such workshops are part of facilities which provide or will provide comprehensive services for persons with mental retardation.

4. "Federal Act" means 42 U.S.C. 291 to 291o-1, inclusive, and 300k to 300t, inclusive, and any other federal law providing for or applicable to the provision of assistance for health facilities.

5. "Federal agency" means the federal department, agency or official designated by law, regulation or delegation of authority to administer the Federal Act.

6. "Health facility" includes a public health center, hospital, facility for hospice care, facility for persons with mental retardation, community mental health center, and other facility to provide diagnosis, treatment, care, rehabilitation, training or related services to persons with physical or mental impairments, including diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes, as those terms are defined in the Federal Act, and such other facilities for which federal aid may be authorized under the Federal Act, but, except for facilities for persons with mental retardation, does not include any facility furnishing primarily domiciliary care.

7. "Nonprofit health facility" means any health facility owned and operated by a corporation or association, no part of the net earnings of which

inures or may lawfully inure to the benefit of any private shareholder or natural person.

8. "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics and administrative offices operated in connection with public health centers.

9. "State Department" means the Department of Health and Human Services, acting through its appropriate divisions.

~~{Sec. 7.}~~ **Sec. 8.** Chapter 455C of NRS is hereby amended by adding thereto a new section to read as follows:

~~{Before}~~ Notwithstanding any provision of law to the contrary, the Division may **not** adopt any regulation concerning the construction, maintenance, operation or safety of a building ~~{,}~~ **or** structure ~~for other property in}~~ **on property of this State** ~~{, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.}~~

~~Sec. 8.}~~ **or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.**

Sec. 9. Chapter 461 of NRS is hereby amended by adding thereto a new section to read as follows:

~~{Before}~~ Notwithstanding any provision of law to the contrary, the Division may **not** adopt any regulation concerning the construction, maintenance, operation or safety of a building ~~{,}~~ **or** structure ~~for other property in}~~ **on property of this State** ~~{, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.}~~

~~Sec. 9.}~~ **or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.**

Sec. 10. Chapter 472 of NRS is hereby amended by adding thereto a new section to read as follows:

~~{Before}~~ Notwithstanding any provision of law to the contrary, the State Forester Firewarden may **not** adopt any regulation concerning the construction, maintenance, operation or safety of a building ~~{,}~~ **or** structure ~~for other property in}~~ **on property of this State** ~~{, the State Forester Firewarden shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.}~~

~~Sec. 10.}~~ **or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.**

Sec. 11. Chapter 477 of NRS is hereby amended by adding thereto a new section to read as follows:

~~{Before}~~ Notwithstanding any provision of law to the contrary, the State Fire Marshal may **not** adopt any regulation concerning the construction,

~~*maintenance, operation or safety of a building, ^[1] or structure for other property in* on property of this State ~~, the State Fire Marshal shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~~~

~~*Sec. 11. ^[1] or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.*~~

Sec. 12. Any regulations of the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal existing on the effective date of this act which concern the construction, maintenance, operation or safety of buildings or structures on property of this State or held in trust for any division of the State Government remain in effect until the State Public Works Board adopts the regulations required pursuant to section 1 of this act.

Sec. 13. This act becomes effective upon passage and approval.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 55 to Senate Bill No. 40 amends the bill to require the State Public Works Board to adopt regulations concerning the construction, maintenance, operation, and safety of certain buildings and structures on property of this State. It requires the deputy manager for compliance and code enforcement to make recommendations to the Board concerning these regulations; and adds language prohibiting certain State agencies and officials from adopting regulations that apply to buildings and structures on State property which conflict with regulations adopted by the State Public Works Board.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 57.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 8.

"SUMMARY—Expands the circumstances pursuant to which a court is authorized to issue certain warrants. (BDR 11-289)"

"AN ACT relating to children; expanding the circumstances pursuant to which a court is authorized to issue a warrant to take physical custody of a child; ~~requiring an agency which provides child welfare services to place such a child in certain shelters;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law as set forth in the Uniform Child Custody Jurisdiction and Enforcement Act (chapter 125A of NRS) authorizes a court in a proceeding

to enforce a child custody determination to issue a warrant to take physical custody of a child in an emergency situation if the court finds that the child is immediately likely to suffer serious physical harm or to be removed from this State. Before issuing the warrant, the court is required to hold a hearing at which the party alleging the need for the warrant is present but not the party who has physical custody of the child. (NRS 125A.525) The Uniform Child Custody Jurisdiction and Enforcement Act also authorizes a court in this State, to enforce a child custody determination issued by a court in another state, to issue an order to take physical custody of a child in a nonemergency situation after holding a hearing at which both parties, the petitioner and the respondent, are given an opportunity to be heard. (NRS 125A.495)

Existing law as set forth in the Uniform Child Abduction Prevention Act (chapter 125D of NRS) authorizes a court, pursuant to a petition filed either before or after a child custody determination has been made, to issue a warrant to take physical custody of a child in an emergency situation if the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed. The court may issue the warrant without providing prior notice and an opportunity to be heard to the party who has physical custody of the child. (NRS 125D.200)

Existing law also authorizes the court in divorce or other dissolution of marriage proceedings to enter an order allowing a party, under certain circumstances and with the assistance of a law enforcement agency, to obtain physical custody of a child from the party having physical custody of the child if the court finds that it would be in the best interest of the child to do so. (NRS 125.470) **Section 1** of this bill deletes this provision regarding divorce and other dissolution of marriage proceedings, and **section 2** of this bill sets forth a new procedure.

Section 2 expands the circumstances in which a court is authorized to issue a warrant to take physical custody of a child. Specifically, **section 2** authorizes a court, upon a petition submitted during a proceeding to establish custody of a child or to enforce or modify a child custody determination, to issue a warrant to take physical custody of the child where there is probable cause to believe that the child has been abducted. If the court determines that the child has been abducted and that an emergency situation exists, including, without limitation, a situation in which the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court is authorized to issue a warrant. Before issuing the warrant in an emergency situation, the court must hold a hearing at which the party alleging the need for the warrant is present but not the party alleged to have committed the act of abduction. If the court determines that the situation is not an emergency situation, before issuing the warrant, the court must hold a hearing at which both parties, the party alleging the need for the warrant and the party alleged to have committed the act of abduction, are given an opportunity to be heard. **Section 2** defines the term "abduction" to include kidnapping, aiding and abetting kidnapping and the willful detaining,

concealing or removing of a child from a person having lawful custody or a right of visitation of the child by a person who has a limited right of custody to the child by operation of law or pursuant to a court order, judgment or decree or who has no right of custody to the child.

Section 2 differs from the similar provisions of the Uniform Child Custody Jurisdiction and Enforcement Act and the Uniform Child Abduction Prevention Act in various ways, including, without limitation, with regard to the types of cases to which it applies. For example, **section 2** applies to: (1) a broader category of emergency situations; (2) emergency situations which occur before a child custody determination has been made and in which the child is in imminent danger of serious physical harm; (3) nonemergency situations for child custody determinations that are issued by courts in this State; and (4) children who are willfully detained or concealed from persons having lawful custody or a right of visitation of the child, in addition to children who are removed from such persons.

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

Section 1. NRS 125.470 is hereby amended to read as follows:

125.470 1. If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, it appears to the court that any minor child of either party has been, or is likely to be, taken or removed out of this State or concealed within this State, the court shall forthwith order such child to be produced before it and make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.

2. ~~If, during any proceeding brought under this chapter, either before or after the entry of a final order concerning the custody of a minor child, the court finds that it would be in the best interest of the minor child, the court may enter an order providing that a party may, with the assistance of the appropriate law enforcement agency, obtain physical custody of the child from the party having physical custody of the child. The order must provide that if the party obtains physical custody of the child, the child must be produced before the court as soon as practicable to allow the court to make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.~~

3. ~~If the court enters an order pursuant to subsection 2 providing that a party may obtain physical custody of a child, the court shall order that party to give the party having physical custody of the child notice at least 24 hours before the time at which he or she intends to obtain physical custody of the child, unless the court deems that requiring the notice would likely defeat the purpose of the order.~~

4. All orders for a party to appear with a child issued pursuant to this section may be enforced by issuing a warrant of arrest against that party to secure his or her appearance with the child.

~~5.~~ 3. A proceeding under this section must be given priority on the court calendar.

Sec. 2. Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

1. If, during any proceeding to establish custody of a child or enforce or modify a child custody determination, brought pursuant to this chapter or chapter 125 or 125A of NRS, it appears to the court upon a petition submitted by an aggrieved party or any other person having knowledge of the relevant facts that there is probable cause to believe that an act of abduction has been committed against the child and that the act of abduction was committed without just cause, the court may issue a warrant to take physical custody of the child. A copy of a petition submitted pursuant to this subsection must be served upon the Children's Advocate appointed pursuant to NRS 432.157 before any hearing is held by the court pursuant to this section.

2. The petition must include, without limitation:

(a) An affidavit or other sworn declaration, signed by the petitioner under penalty of perjury, attesting to the truth and accuracy of the petition;

(b) A copy of the most recent child custody determination, if any, of the child;

(c) The name of the person or persons having legal custody of the child;

(d) A statement of the facts and circumstances pertaining to the abduction of the child;

(e) A statement indicating whether the child, the person alleged to have committed the act of abduction or the petitioner has been:

(1) The subject of an investigation of alleged abuse or neglect of a child or domestic violence;

(2) A party to a proceeding concerning the alleged abuse or neglect of a child, an act of abduction of a child or domestic violence; or

(3) A party against whom an order for protection against domestic violence was issued; and

(f) A statement indicating whether any other court has exercised jurisdiction over the custody or welfare of the child.

3. The court may, in its discretion, supplement the allegations in the petition with the sworn testimony of the petitioner at a hearing before the court. Any such testimony must be recorded and preserved in the records of the court.

4. If the court determines that exigent circumstances exist in relation to the issuance of the warrant, including, without limitation, that the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court may issue the warrant described

in subsection 6 after an ex parte hearing. If the court issues the warrant after an ex parte hearing, the court:

(a) Shall afford the party alleged to have committed the act of abduction an opportunity to be heard at the earliest possible time after the warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. If a hearing on the next judicial day is impossible, the court shall hold the hearing on the first judicial day possible.

(b) Shall provide , or cause the petitioner to provide, notice of the hearing to be held pursuant to paragraph (a) to the party alleged to have committed the act of abduction and all other interested parties.

5. If the court determines that no exigent circumstances exist in relation to the issuance of the warrant, the court:

(a) Shall hold a hearing before it issues the warrant described in subsection 6;

(b) Shall provide , or cause the petitioner to provide, notice of the hearing to all interested parties;

(c) If the party alleged to have committed the act of abduction is present at the hearing, may order the party to return the child ~~to the petitioner or other person or agency specified by the court~~ in accordance with the placement of the child pursuant to subsection 7 and may issue the warrant described in subsection 6; and

(d) If the party alleged to have committed the act of abduction received notice but is not present at the hearing, may issue the warrant described in subsection 6.

6. A warrant issued by the court pursuant to this section:

(a) Must set forth findings of fact that establish probable cause for believing that an act of abduction occurred and that the act of abduction was without just cause;

(b) Must direct law enforcement officers to take physical custody of the child and deliver the child ~~to the person or agency determined by the court~~ in accordance with the placement of the child pursuant to subsection 7;

(c) Must specify the property that may be searched and the child that may be seized pursuant to the warrant;

(d) May authorize law enforcement officers to enter private property as described in paragraph (c) to take physical custody of the child; and

(e) Is enforceable throughout this State.

7. Based on the statements in the petition and the testimony provided at any hearing held by the court, the court shall ~~determine and set forth in the warrant whether it is in the best interests of the child to:~~

~~(a) Return the child to or place the child in the custody and care of the petitioner;~~

~~(b) Place the child in the custody and care of another person, as permitted by specific statute; or~~

~~(c) Deliver the child to an agency which provides child welfare services.~~

~~8 The child must remain in the custody of the person or agency determined by the court pursuant to subsection 7 until further order of the court.~~ **provide for the placement of the child pending final relief.**

~~9~~ **8.** As soon as reasonably practicable but not later than 24 hours after executing a warrant issued pursuant to this section, the law enforcement officer who or the law enforcement agency which executed the warrant shall inform the court of the execution of the warrant.

~~10~~ **9.** After the hearing required by subsection 4 or 5 to afford all interested parties an opportunity to be heard, the court shall enter an order for temporary or permanent custody of the child.

~~11~~ **10.** If the court finds, after a hearing, that a petitioner sought a warrant pursuant to this section for the purpose of harassment or in bad faith, the court may:

(a) Award the other party reasonable attorney's fees, costs and expenses; and

(b) Impose a civil penalty of not more than \$1,000 on the petitioner.

~~12~~ **11.** The remedies available pursuant to this section are in addition to the remedies available pursuant to any other applicable provision of law, including, without limitation, NRS 125.470.

~~13~~ **12.** As used in this section:

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359.

(b) "Abuse or neglect of a child" has the meaning ascribed to it in NRS 432B.020.

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

~~(d)~~ "Child custody determination" means a judgment, decree or other order of a court providing for the legal custody, physical custody or visitation with respect to a child. The term includes a permanent, temporary, initial and modification order.

~~(e)~~ **(d)** "Domestic violence" means the commission of any act described in NRS 33.018.

Sec. 3. ~~Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~A child delivered pursuant to section 2 of this act to an agency which provides child welfare services must be placed in a shelter, which may include, without limitation, a foster home or other home or facility which provides care for those children, except as otherwise provided in NRS 432B.3905. Such a child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.~~ **(Deleted by amendment.)**

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

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment ensures that the required petitions are served on the Children's Advocate in the Attorney General's Office, clarifies proper placement of the child pending final relief, and makes other technical revisions.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 81.

Bill read second time.

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

Amendment No. 189.

"SUMMARY—Makes various changes relating to state financial administration. (BDR 31-396)"

"AN ACT relating to state financial administration; ~~requiring professional and occupational licensing agencies to deny the issuance or renewal of licenses possessed by certain persons who owe debts to the State; requiring the State Controller to develop and operate with financial institutions a data-match system for the collection of certain debts owed to state agencies;~~ revising the statutes of limitation for the State Controller to take action regarding the collection of certain debts owed to state agencies; providing for the electronic payment of certain payments; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~‡ Existing law authorizes an agency of this State to refuse to conduct a transaction with a person who owes a debt to an agency until the debt is paid or the person enters into an agreement to pay the debt in installments. (NRS 353C.128) Section 2 of this bill: (1) requires the State Controller to establish a list to notify all professional and occupation licensing authorities in this State that a person who is applying for the issuance or renewal of a license, certification, registration, permit or other similar authorization which grants the person authority to engage in a profession or occupation has failed to pay a debt owed to the State; and (2) provides that a licensing authority shall not issue or renew such a license, certification, registration, permit or authorization to a person whose name is included on the list.~~

~~Section 3 of this bill requires the State Controller to develop and operate a system for matching data to collect outstanding debts. The State Controller and financial institutions located in this State may use the system developed for the collection of child support to fulfill the requirements of section 3. Financial institutions must provide to the State Controller information on persons who maintain accounts at the financial institution and are identified by the State Controller as owing an outstanding debt to the State. Financial institutions are then required to encumber assets held in the financial institution by the debtors to pay their debts.~~

Existing law sets forth statutes of limitation for when the State Controller may take certain action to collect debts owed to the State. (NRS 353C.140, 353C.170, 353C.180, 353C.210) Sections 4-7 of this bill amend ~~the~~ those statutes of limitation ~~, for when the State Controller may take certain action to collect debts owed to the State.~~

Section 8 of this bill requires the State Controller to pay accounts payable electronically unless doing so would cause undue hardship to the payee.

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

Section 1. ~~{Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.}~~ (Deleted by amendment.)

Sec. 2. ~~{1. The State Controller shall:~~

~~(a) Establish and maintain a list of persons who owe a debt to an agency; and~~

~~(b) Make the list available to all licensing agencies.~~

~~2. A licensing agency shall not issue a license to any person or renew the license of any person unless and until the licensing agency confirms that the name of the person is not included on the list established by the State Controller pursuant to subsection 1.~~

~~3. The State Controller shall adopt such regulations as are necessary or advisable to carry out the provisions of this section.~~

~~4. As used in this section:~~

~~(a) "License" means any license, certification, registration, permit or other similar authorization that grants a person the authority to engage in a profession or occupation in this State.~~

~~(b) "Licensing agency" means any agency that issues or renews any license.}~~ (Deleted by amendment.)

Sec. 3. ~~{1. The State Controller shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible. If a financial institution has developed and operated a system for matching data pursuant to NRS 425.460, and such a system is approved by the State Controller, the system satisfies the requirements of this section.~~

~~2. In addition to any other remedy provided for in this chapter, the State Controller may use the system for matching data developed and operated pursuant to subsection 1 to collect a debt, plus any applicable penalties and interest.~~

~~3. A financial institution in this State shall:~~

~~(a) Cooperate with the State Controller in carrying out the provisions of subsection 1.~~

~~(b) Use the system to provide to the State Controller for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification of each person who maintains an~~

~~account at the financial institution, as identified by the State Controller by name and social security number or other number assigned for taxpayer identification.~~

~~(e) In response to the receipt from the State Controller of notification of debt that a person owes the State, encumber all assets of the person held by the financial institution on behalf of the State Controller and surrender those assets to the State Controller. A financial institution is not required to encumber or surrender any assets received by the financial institution on behalf of the person after the financial institution received the notice of the debt from the State Controller.~~

~~4. A financial institution may not be held liable in any civil or criminal action for:~~

~~(a) Any disclosure of information to the State Controller pursuant to this section.~~

~~(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section.~~

~~(c) Any other action taken in good faith to comply with the requirements of this section.~~

~~5. If a court issues an order to return to a person any assets surrendered by a financial institution pursuant to subsection 3, the State Controller is not liable to the person for any of those assets that have been provided to the State Controller in accordance with the order for the payment of a debt.~~

~~6. All information provided to the State Controller by a financial institution pursuant to this section is confidential and may only be used by the State Controller for use in the collection of a debt owed to the State.~~

~~7. As used in this section, "financial institution" has the meaning ascribed to it in NRS 239A.030.] (Deleted by amendment.)~~

Sec. 4. NRS 353C.140 is hereby amended to read as follows:

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

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

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

➤ on behalf of this state to collect the debt, plus any applicable penalties and interest. The action must be brought not later than 4 ~~6~~ years after the date on which the debt became due or within ~~5~~ ~~6~~ 4 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

Sec. 5. NRS 353C.170 is hereby amended to read as follows:

353C.170 1. An abstract of the judgment entered pursuant to NRS 353C.160, or a copy thereof, may be recorded in the office of the county recorder of any county.

2. From the time of its recordation, the judgment becomes a lien upon all real and personal property situated in the county that is owned by the

judgment debtor, or which the debtor may afterward acquire, until the lien expires. The lien has the force, effect and priority of a judgment lien and continues for ~~{5} ~~6~~~~ 4 years after the date of the judgment so entered by the court clerk unless sooner released or otherwise discharged.

3. Within ~~{5} ~~6~~~~ 4 years after the date of the recording of the judgment or within ~~{5} ~~6~~~~ 4 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording an affidavit of renewal in the office of the county recorder. From the date of recording, the lien is extended for ~~{5} ~~6~~~~ 4 years to all real and personal property situated in the county that is owned by the judgment debtor or acquired by the judgment debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 6. NRS 353C.180 is hereby amended to read as follows:

353C.180 1. In addition to any other remedy provided for in this chapter, the State Controller may, within 4 ~~6~~ years after the date that a debt becomes due, record a certificate of liability in the office of a county recorder which states:

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

(b) The name and address of the debtor, as the name and address of the debtor appear on the records of the State Controller;

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

(d) That the State Controller has notified the debtor in accordance with subsection 2.

2. The State Controller shall, not less than 15 days before the date on which he or she intends to file the certificate, notify the debtor of the State Controller's intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency to which the debt is owed, the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and continues for ~~{5} ~~6~~~~ 4 years after the date of recording unless sooner released or otherwise discharged.

4. Within ~~{5} ~~6~~~~ 4 years after the date of the recording of the certificate or within ~~{5} ~~6~~~~ 4 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording,

the lien is extended for ~~15~~ ~~67~~ 4 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 7. NRS 353C.210 is hereby amended to read as follows:

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

(a) Not later than 4 ~~67~~ years after the debt became due; or

(b) Not later than ~~67~~ 4 years after the last recording of an abstract of judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to NRS 353C.180.

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

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

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

5. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall, within 10 days thereafter, inform the State Controller of, and transmit to the State Controller within the time and in the manner requested by the State Controller, all credits or other personal property in his or her possession or control that belong to, and all debts that he or she owes to, the person who is the subject of the demand to transmit. Except as otherwise provided in subsection 6, no further notice is required to be served on such persons.

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to the debtor, the person who owes or controls the payments shall transmit the payments to the State Controller until otherwise notified by the State Controller. If the debt of the

debtor is not paid within 1 year after the date on which the State Controller issued the original demand to transmit, the State Controller shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs the person to continue transmitting payments to the State Controller; or

(b) Notify the person that his or her duty to transmit the payments to the State Controller has ceased.

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

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

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

Sec. 8. Chapter 227 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, the State Controller shall pay an account payable electronically.*

2. *Upon application of a payee or the payee's representative, the State Controller may waive the requirements of subsection 1 if the State Controller determines that the electronic payment of an account payable would cause the payee to suffer undue hardship or extreme inconvenience.*

3. *The State Controller may adopt such regulations as are necessary or advisable to carry out the provisions of this section.*

Sec. 9. NRS 227.200 is hereby amended to read as follows:

227.200 The State Controller shall:

1. Draw a warrant in favor of any person or governmental payee certified by an agency of state government to receive money from the treasury and deliver or mail the warrant to the State Treasurer who shall sign the warrant and:

(a) ~~{Deliver or mail the countersigned warrant,}~~ ***Except as otherwise provided in section 8 of this act, if it is for payment of an account payable, {directly to} electronically pay the payee or the payee's representative;***

(b) If it is for payment of an employee:

(1) Deliver or mail the warrant to the employee or to the appropriate state agency for distribution; or

(2) Deposit the warrant to the credit of the employee by direct deposit at a bank or credit union in which the employee has an account, if the employee has authorized the direct deposit; or

(c) Deposit the warrant to the credit of the payee through a funds transfer.

2. Keep a warrant register, in which the State Controller shall enter all warrants drawn by him or her. The arrangement of this book must be such as to show the bill and warrant number, the amount, out of which fund the warrants are payable, and a distribution of the warrants under the various appropriations.

3. Credit the State Treasurer with all warrants paid.

Sec. 10. ~~NRS 239A.070 is hereby amended to read as follows:~~

~~239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:~~

~~1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.~~

~~2. The Attorney General, State Controller, district attorney, Department of Taxation, Director of the Department of Health and Human Services, Administrator of the Securities Division of the Office of the Secretary of State, public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.~~

~~3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.~~

~~4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.~~

~~5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain the customer's financial records, except when ordered by a court to withhold such notification.~~

~~6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.~~

~~7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.~~

~~8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460 [.] or section 3 of this act.~~

~~9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution. (Deleted by amendment.)~~

Sec. 11. NRS 333.450 is hereby amended to read as follows:

333.450 1. ~~1. [A]]~~ ***Except as otherwise provided in section 8 of this act,*** claims for supplies, materials, equipment and services purchased pursuant to the provisions of this chapter must, when approved by the Chief, be paid in the same manner as other claims against the State are required to be paid.

2. The Chief shall annually assess each using agency a fee for the procurement and inventory services provided by the Purchasing Division to the using agency. The fee must be based on the using agency's use of the procurement and inventory services of the Purchasing Division during preceding years. The Chief shall adjust the formula for calculating the fee each biennium.

3. If an agency is not a using agency, the Chief shall assess a fee of not more than the cost to the Division to process the order for the agency.

4. The Chief may adopt regulations to carry out the provisions of this section.

Sec. 12. This act becomes effective upon passage and approval.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 189 to Senate Bill No. 81 deletes Sections 2 and 3 in their entirety. It changes the statute of limitations for when the State Controller may take certain action to collect debts owed to the State from six years (as originally proposed in the bill) to four years. This change will conform Senate Bill No. 81 with Senate Bill No. 31, which was approved by the Senate on March 18, 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 110.

Bill read second time.

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

Amendment No. 47.

"SUMMARY—Requires the establishment of a ~~centralized licensing office for~~ business ~~licenses~~ **license to engage in contracting** in ~~each county~~ **certain counties and cities** in this State. (BDR 20-820)"

"AN ACT relating to businesses; requiring ~~each~~ **a** board of county commissioners ~~to establish a centralized licensing office to issue business~~

~~licenses in the county; requiring each city and town to cooperate with the board of county commissioners in operating the centralized licensing office and to assign certain proceeds of the city's or town's license taxes to the operating costs of the office;}~~ **and the governing bodies of certain incorporated cities to enter into an agreement to establish a business license to allow a licensed contractor to engage in the business of contracting in the county and cities under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes counties, cities and towns to issue business licenses and permits to operate a business within the limits of the county, city or town and to collect taxes on those licenses. (NRS 244.335, 266.355, 268.095, 269.170) ~~{Section}~~ **Sections 1 and 2** of this bill ~~{requires each}~~ **require the** board of county commissioners **in a county whose population is 700,000 or more (currently Clark County) and the governing body of each incorporated city whose population is 150,000 or more located in such a county (currently Henderson, Las Vegas and North Las Vegas)** to ~~{establish a centralized licensing office within the county where a person may apply for and obtain all the business licenses and permits required by the county, city or town in which the business will operate. Section 2 of this bill requires each city council or other governing body of a city to cooperate with the board of county commissioners of the county in which the city is located in operating the centralized licensing office and further requires the city, if requested by the board of county commissioners, to contribute money to defray a portion of the operating and maintenance costs of the office.~~

Existing law provides several uses to which a city may put the license taxes it collects on business licenses. (NRS 268.095) Section 3 of this bill expands that list to include supporting the operating and maintenance costs of the centralized licensing office. Section 4 of this bill requires each town board of an unincorporated town to cooperate with the board of county commissioners of the county in which the town is located in operating the centralized licensing office and further requires the town, if requested by the board of county commissioners, to contribute money to defray a portion of the operating and maintenance costs of the office. **enter into an agreement with each other for the establishment of a business license to allow a licensed contractor to engage in the business of contracting in the county and cities if the contractor: (1) has a place of business in an unincorporated area of the county; or (2) does not have a place of business in the county. Sections 1 and 2 further require the board of county commissioners and governing body of each incorporated city to establish by ordinance a system for issuing the business license which sets forth the requirements for obtaining the license and the fees for the issuance and renewal of the license.**

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners in each county whose population is 700,000 or more shall ~~establish a centralized licensing office where a person may apply for and obtain a business license and any other permit required by the county license board, a city licensing agency or any other licensing authority in the county, city or town in which the business will operate.~~

~~2. The centralized licensing office must meet the standards and requirements established by the Secretary of State pursuant to NRS 75.100 as necessary to participate in the state business portal.~~

~~3. The centralized licensing office shall provide upon request an application for a state business license pursuant to chapter 76 of NRS.] enter into an agreement in accordance with the provisions of NRS 277.080 to 277.180, inclusive, with the governing body of each city whose population is 150,000 or more located within the county for the establishment of a business license to authorize a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each of those cities.~~

2. The agreement required pursuant to subsection 1 must set forth the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the county and each city that enters into the agreement.

3. Upon entering into the agreement required pursuant to subsection 1, the board of county commissioners shall establish by ordinance a system for issuing such a business license that authorizes a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each city that entered into the agreement.

4. An ordinance adopted pursuant to the provisions of subsection 3 must include, without limitation:

- (a) The requirements for obtaining the business license;
- (b) The fees for the issuance and renewal of the business license; and
- (c) Any other requirements necessary to establish the system for issuing the business license.

5. A person who is licensed as a contractor pursuant to chapter 624 of NRS is eligible to obtain from the county a business license that authorizes the person to engage in the business of contracting within the county and each city located in the county which enters into an agreement pursuant to subsection 1 if the person meets the requirements set forth in the ordinance to qualify for the license and:

- (a) The person maintains only one place of business within the county and the place of business is located within the unincorporated area of the county;

(b) The person maintains more than one place of business within the county and each of those places of business is located within the unincorporated area of the county; or

(c) The person does not maintain any place of business within the county.

6. A person who obtains a business license described in this section is subject to all other licensing and permitting requirements of the State and any other counties and cities in which the person does business.

Sec. 1.5. NRS 244.335 is hereby amended to read as follows:

244.335 1. Except as otherwise provided in subsections 2, 3 and 4, **and section 1 of this act,** a board of county commissioners may:

(a) Except as otherwise provided in NRS 244.331 to 244.3345, inclusive, 598D.150 and 640C.100, regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) Except as otherwise provided in NRS 244.3359 and 576.128, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate entertainers employed by an entertainment by referral service and the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such employment and businesses.

3. A board of county commissioners shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS. The county license board shall provide upon request an application for a business license pursuant to chapter 76 of NRS. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months after the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 244.3357, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or Secretary of State for the exchange of information concerning taxpayers.

Sec. 2. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The [city council or other] governing body of each incorporated city [in this State,] whose population is 150,000 or more and which is located in a county whose population is 700,000 or more, whether organized under general law or special charter, shall f=~~

~~1. Cooperate with the board of county commissioners of the county within which the city is situated in operating the centralized licensing office established in that county pursuant to section 1 of this act; and~~

~~2. If requested by that board of county commissioners, contribute money to assist the board of county commissioners in defraying a portion of the costs of operating and maintaining the centralized licensing office from the proceeds of license taxes collected by the city pursuant to NRS 268.095.] enter into an agreement in accordance with the provisions of NRS 277.080 to 277.180, inclusive, with the board of county commissioners of the county in which the city is located and the governing body of every other city located within the county whose population is 150,000 or more for the establishment of a business license to authorize a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each of those cities.~~

2. The agreement required pursuant to subsection 1 must set forth the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the county and each city that enters into the agreement.

3. Upon entering into the agreement required pursuant to subsection 1, the governing body of the city shall establish by ordinance a system for issuing such a business license that authorizes a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and cities that entered into the agreement pursuant to subsection 1.

4. An ordinance adopted pursuant to the provisions of subsection 3 must include, without limitation:

- (a) The requirements for obtaining the business license;
- (b) The fees for the issuance and renewal of the business license; and
- (c) Any other requirements necessary to establish the system for issuing the business license.

5. A person who is licensed as a contractor pursuant to chapter 624 of NRS is eligible to obtain from the city a business license that authorizes the person to engage in the business of contracting within the county and each city located in the county which enters into an agreement pursuant to subsection 1 if the person meets the requirements set forth in the ordinance to qualify for the license and:

(a) The person maintains only one place of business within the county and the place of business is located within the jurisdiction of the city;

(b) The person maintains more than one place of business within the county and each of those places of business is located within the jurisdiction of the city; or

(c) The person does not maintain any place of business within the county.

6. A person who obtains a business license described in this section is subject to all other licensing and permitting requirements of the State and any other counties and cities in which the person does business.

Sec. 3. NRS 268.095 is hereby amended to read as follows:

268.095 1. Except as otherwise provided in subsection 4 ~~1~~ 1 ~~and~~ section 2 of this act, the city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in subsection 2 and NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities ~~and~~

~~(7) For operating and maintaining the centralized licensing office established pursuant to section 1 of this act.]~~

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS. The city licensing agency shall provide upon request an application for a business license pursuant to chapter 76 of NRS. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or the Secretary of State for the exchange of information concerning taxpayers.

8. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 4. ~~Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~In an unincorporated town with a town board form of government, the town board shall:~~

~~1. Cooperate with the board of county commissioners of the county within which the town is situated in operating the centralized licensing office established in that county pursuant to section 1 of this act; and~~

~~2. If requested by that board of county commissioners, contribute money to assist the board of county commissioners in defraying a portion of the costs of operating and maintaining the centralized licensing office from the proceeds of license taxes collected by the town pursuant to NRS 269.170.]~~

(Deleted by amendment.)

Sec. 4.5. The governing body of a county whose population is 700,000 or more and each city whose population is 150,000 or more located in the county shall:

1. Enter into the agreements required pursuant to sections 1 and 2 of this act; and

2. Adopt the ordinances required pursuant to section 1 and 2 of this act,

↪ on or before 1 year after the effective date of this act.

Sec. 5. This act becomes effective upon passage and approval.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 47 to Senate Bill No. 110 requires the Board of County Commissioners in Clark County and the governing bodies of those cities in Clark County whose populations are 150,000 or more to enter into an interlocal agreement for the establishment of a business license specific to contractors for operating their business in the county and in those cities. It provides that, upon entering into the interlocal agreement, the county and the affected cities must establish ordinances that authorize a contractor to engage in business in the county and those cities.

The amendment specifies that in order for a person to be eligible to obtain the business license, he or she must meet whatever requirements are set forth in the ordinance and satisfy other requirements relating to the maintenance of the business location in one place, either the city or the unincorporated county, and specifies that a person who obtains the business license be subject to all other licensing and permitting requirements of the State, counties, and cities in which the licensee does business.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 194.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 161.

"SUMMARY—Urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require certain disclosures in class action lawsuits. (BDR S-563)"

"AN ACT relating to civil practice; urging the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in certain class actions to provide ~~to a disclosure~~ **certain disclosures** under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under the existing Nevada Rules of Civil Procedure, an attorney in certain class actions is required to make certain disclosures to certain members of the class. Specifically, those disclosures provide that: (1) the court will exclude a member of the class if the member requests such an exclusion, or "opts out" of the class by a specified date; (2) the judgment in the action will include all members of the class who do not opt out of the class; and (3) any member of the class who does not opt out of the class may enter an appearance with the court through the member's attorney. (N.R.C.P. 23) **Under the existing Federal Rules of Civil Procedure, such an attorney is also required to make other disclosures not specifically required pursuant to**

N.R.C.P. 23, including: (1) the nature of the action; (2) the definition of the class certified; (3) the class claims, issues or defenses; and (4) the time and manner for requesting exclusion from the class. (F.R.C.P. 23)

This bill urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in such class actions to make ~~an additional disclosure~~ **all the disclosures required pursuant to F.R.C.P. 23** to each member of the class. ~~[concerning possible consequences that the member of the class may face if the member does not opt out of the class.]~~

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

Section 1. The Legislature finds and declares that:

1. A class action is an efficient use of judicial resources which provides a method of resolving many similar claims in one lawsuit rather than litigating each of the claims in separate lawsuits.

2. A person may ~~be included in a class action without realizing that he or she is included in the lawsuit or may not be adequately informed of the ramifications of being included in the lawsuit.~~

~~3. A~~ **benefit greatly from remaining a member of a class and participating in a class action.**

3. However, a person may **also** suffer negative consequences as a result of being included in a class action and may not understand that he or she has the ability to opt out of the lawsuit.

4. Thus, it is important that each person who is included in a class action make an informed decision regarding whether to remain a member of the class and participate in the lawsuit or to opt out of the lawsuit.

5. For a person to make such an informed decision, it is necessary to provide the person with sufficient information regarding the lawsuit and how to opt out of the lawsuit.

6. Under the existing Nevada Rules of Civil Procedure, specifically N.R.C.P. 23, an attorney in certain class actions is required to make certain disclosures to certain members of the class.

~~[5. Having an additional disclosure to each member of the class which is clear and noticeable and which sets forth the possible consequences that the member of the class may face if the member does not request to be excluded from the class is in the public interest.~~

~~6.]~~ **7. Under the existing Federal Rules of Civil Procedure, specifically F.R.C.P. 23, such an attorney is also required to make other disclosures not specifically required pursuant to N.R.C.P. 23, including the nature of the action, the definition of the class certified, the class claims, issues or defenses, and the time and manner for requesting exclusion from the class.**

8. Providing these additional disclosures would help a member of a class to understand and appreciate more fully his or her decision to remain in the lawsuit or to opt out of the lawsuit.

9. Therefore, the Legislature urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require ~~such a disclosure.~~ **all the disclosures required pursuant to F.R.C.P. 23.**

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

This amendment, brought to us by our colleague from Boulder City, urges the Supreme Court, through its rules and procedures, to address concerns about people's knowledge of class action lawsuits.

It would expand the public's awareness about their options related to being included in class action lawsuits.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 251.

Bill read second time.

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

Amendment No. 151.

"SUMMARY—Creates the Nevada Sunset Commission to evaluate certain governmental programs and services. (BDR 18-745)"

"AN ACT relating to commissions; creating the Nevada Sunset Commission; providing for its membership; requiring the Commission to evaluate the necessity and efficacy of all governmental programs and services provided in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill creates the Nevada Sunset Commission and sets forth the details regarding the members of the Commission, who are appointed by seven different appointing authorities. **Section 5** of this bill sets forth the duties of the Commission which include, without limitation, reviewing and evaluating all governmental programs and services in this State for necessity and efficacy and for duplication by other programs and services offered by the Federal Government, this State or local governments in this State. **Section 4** of this bill requires the Commission to meet at least bimonthly and to annually report its findings and recommendations to the Governor and the Legislature. **Section 6** of this bill authorizes the Commission, **with limited exception**, to apply for and receive gifts, grants, contributions or other money to carry out its duties.

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

Section 1. Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, "Commission" means the Nevada Sunset Commission created by section 3 of this act.*

Sec. 3. 1. *The Nevada Sunset Commission is hereby created.*

2. *The Commission consists of ~~four~~ seven members of the general public:*

(a) *One member appointed by the Governor;*

(b) *One member appointed by the Majority Leader of the Senate;*

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

(d) *One member appointed by the Speaker of the Assembly;*

(e) *One member appointed by the Minority Leader of the Assembly;*

(f) *One member appointed by the Nevada League of Cities and Municipalities; and*

(g) *One member appointed by the Nevada Association of Counties.*

3. *All members appointed pursuant to subsection 2 must:*

(a) *Be versed in the operation or management of state or local governments; and*

(b) *Demonstrate the knowledge, judgment and experience to perform the duties of the Commission.*

4. *An elected officer may not be appointed or serve as a member of the Commission.*

~~4.1~~ 5. *The member of the Commission appointed by the Governor serves, ex officio, as the Chair of the Commission.*

~~5.1~~ 6. *Each member of the Commission serves at the pleasure of the appointing authority who appointed the member.*

~~6.1~~ 7. *After the initial terms, each member of the Commission serves for a term of 3 years. Each member of the Commission continues in office until the member's successor is appointed. Any member of the Commission may be reappointed.*

~~7.1~~ 8. *A vacancy in the membership of the Commission must be filled in the same manner as the original appointment for the remainder of the unexpired term.*

~~8.1~~ 9. *The members of the Commission serve without compensation. If sufficient money is available, the members of the Commission are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the Commission.*

Sec. 4. 1. *The Commission shall meet at the call of the Chair as frequently as required to perform its duties, but no less often than every other month.*

2. *A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those present at any meeting is sufficient for any official action taken by the Commission.*

3. *The Commission shall, on or before January 1 of each year, submit a report to the Governor and the Legislature, or if the Legislature is not in session, to the Legislative Commission, summarizing the Commission's*

findings and activities for the previous year. In each report submitted on or before January 1 of each odd-numbered year, the Commission shall include any recommendations for legislation based on its review of governmental programs and services for the previous biennium.

Sec. 5. *The Commission shall continuously review all governmental programs and services provided in this State. Such review must include, without limitation:*

1. An evaluation of whether the program or service is effectively serving the purpose for which it was created;

2. An evaluation of the necessity of the program or service, including, without limitation, a consideration of any change in state or federal law since the time the program or service was created; and

3. An examination of other programs and services provided by the Federal Government, this State and local governments in this State to determine if any other provided programs or services duplicate those provided by the program or service.

Sec. 6. ~~*The*~~

1. Except as otherwise provided in subsection 2, the Commission may apply for and receive gifts, grants, contributions or other money from governmental and private agencies, affiliated associations and other persons for the purposes of carrying out the provisions of this chapter and for defraying expenses incurred by the Commission in the discharge of its duties.

2. The Commission may not receive any gift, grant, contribution or other money from a governmental agency that the Commission is reviewing, examining or evaluating.

Sec. 7. As soon as practicable after July 1, 2011:

1. The Governor, the Majority Leader of the Senate and the Minority Leader of the Senate shall each appoint one member of the Nevada Sunset Commission created by section 3 of this act to a term that expires on July 1, 2013; and

2. The Speaker of the Assembly, the Minority Leader of the Assembly, the Nevada League of Cities and Municipalities and the Nevada Association of Counties shall each appoint one member of the Nevada Sunset Commission created by section 3 of this act to a term that expires on July 1, 2014.

Sec. 8. This act becomes effective on July 1, 2011.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

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

Amendment No. 151 to Senate Bill No. 251 provides that the members appointed to the Nevada Sunset Commission must be members of the general public who are versed in the operation or management of state or local governments and demonstrate the knowledge, judgment, and experience to perform the duties of the Commission; and specifies that the

Commission may not receive any gift, grant, contribution, or other money from a governmental agency that the Commission is reviewing, examining, or evaluating.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 256.

Bill read second time.

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

Amendment No. 211.

"SUMMARY—Revises provisions relating to controlled substances. (BDR 40-419)"

"AN ACT relating to controlled substances; prohibiting certain acts relating to the cultivation of marijuana; ~~requiring the State Board of Pharmacy to include on the list of schedule I controlled substances certain substances which are known as synthetic marijuana; revising provisions relating to the medical use of marijuana;~~ providing ~~civil and criminal~~ penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill prohibits a person from knowingly or intentionally manufacturing, growing, planting, cultivating, harvesting, drying, propagating or processing marijuana, except as specifically authorized for the medical use of marijuana. The severity of the punishment for a violation of **section 1** depends upon the number of marijuana plants involved in the violation. A person convicted of a violation of **section 1** is also required to pay all costs associated with any necessary cleanup and disposal.

Sections 5 and 6 of this bill include internal references to **section 1** of this bill to indicate that **section 1** will be **: (1)** codified in chapter 453 of NRS in proximity to similar offenses involving controlled substances ~~, but section 1 will not be~~ **: and (2)** treated in the same manner as those offenses for other purposes in NRS, such as being included in the list of crimes related to racketeering and being included in the definition of "immorality" for the purposes of certain provisions related to educational personnel.

~~‡ Existing law provides that the limited and regulated use of marijuana by persons who suffer from certain medical conditions and who obtain a registry identification card through a program governed by the Health Division of the Department of Health and Human Services is exempt from prosecution under the laws of this State. (Chapter 453A of NRS) Under existing law, the Health Division may deny a registry identification card to, or revoke a card issued to, a person who has been convicted of knowingly or intentionally selling a controlled substance. (NRS 453A.210, 453A.225) Sections 3 and 4 of this bill authorize the Health Division to deny a registry identification card to, or revoke a card issued to, a person who: (1) has been convicted of any felony; (2) has been convicted of a violent crime; (3) has been convicted of certain sexual offenses; or (4) is on probation or parole. Section 7 of this bill~~

~~provides that these requirements: (1) apply to applications for registry identification cards submitted on or after October 1, 2011, or designations of persons as primary caregivers submitted on or after that date; and (2) do not revoke a registry identification card issued before that date unless, on or after October 1, 2011, the person who holds the card is convicted of an offense which prohibits the issuance of a card to that person.~~

~~Existing law authorizes the State Board of Pharmacy to adopt regulations that add or delete substances from the schedules of controlled substances. (NRS 453.146) Existing law also provides that a person convicted of the unauthorized manufacturing, importing, transporting, selling or dispensing of a schedule I controlled substance is guilty of a category B felony and that the punishment depends on the number of prior offenses committed by the person. (NRS 453.321, 453.322) In addition, existing law provides that a person convicted of the unauthorized possession of a schedule I controlled substance is guilty of a category E felony if it is the person's first or second offense and a category D felony if it is the person's third or subsequent offense. (NRS 453.336) Section 2 of this bill requires the Board to classify certain substances which are similar to marijuana as controlled substances included in schedule I.]~~

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not knowingly or intentionally manufacture, grow, plant, cultivate, harvest, dry, propagate or process marijuana, except as specifically authorized by the provisions of this chapter and chapter 453A of NRS.

2. Unless a greater penalty is provided in NRS 453.339, a person who violates subsection 1 shall be punished, if the quantity involved:

(a) Is ~~11~~ 8 to ~~25~~ 75 marijuana plants, for a ~~gross misdemeanor~~ category E felony as provided in NRS 193.130.

(b) Is ~~26~~ 76 to ~~75~~ 100 marijuana plants, for a category ~~E~~ D felony as provided in NRS 193.130.

(c) Is 76 to 100 marijuana plants, for a category D felony as provided in NRS 193.130.

~~(d)~~ Is more than 100 marijuana plants, for a category C felony as provided in NRS 193.130.

3. In addition to the punishment imposed pursuant to subsection 2, the court shall order a person convicted of a violation of subsection 1 to pay all costs associated with any necessary cleanup and disposal related to the manufacturing, growing, planting, cultivation, harvesting, drying, propagation or processing of the marijuana.

Sec. 2. ~~[NRS 453.146 is hereby amended to read as follows:~~

~~453.146—1. The Board shall administer the provisions of NRS 453.011 to 453.552, inclusive, and may add substances to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by regulation.~~

~~2. In making a determination regarding a substance, the Board shall consider the following:~~

- ~~(a) The actual or relative potential for abuse;~~
- ~~(b) The scientific evidence of its pharmacological effect, if known;~~
- ~~(c) The state of current scientific knowledge regarding the substance;~~
- ~~(d) The history and current pattern of abuse;~~
- ~~(e) The scope, duration and significance of abuse;~~
- ~~(f) The risk to the public health;~~
- ~~(g) The potential of the substance to produce psychic or physiological dependence liability; and~~
- ~~(h) Whether the substance is an immediate precursor of a controlled substance.~~

~~3. The Board may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.~~

~~4. After considering the factors enumerated in subsection 2, the Board shall make findings with respect thereto and adopt a regulation controlling the substance if it finds the substance has a potential for abuse.~~

~~5. The Board shall designate as a controlled substance a steroid or other product which is used to enhance athletic performance, muscle mass, strength or weight without medical necessity. The Board may not designate as a controlled substance an anabolic steroid which is:~~

- ~~(a) Expressly intended to be administered through an implant to cattle, poultry or other animals; and~~
- ~~(b) Approved by the Food and Drug Administration for such use.~~

~~6. The Board shall designate as a controlled substance included in schedule I any material, compound, mixture or preparation which contains any quantity of the following substances or their salts, isomers or salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:~~

- ~~(a) 1-pentyl-3-(1-naphthoyl)indole, which is also known as JWH-018;~~
- ~~(b) 1-butyl-3-(1-naphthoyl)indole, which is also known as JWH-073;~~
- ~~(c) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, which is also known as JWH-200;~~
- ~~(d) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, which is also known as CP-47,497;~~
- ~~(e) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, which is also known as cannabicyclohexanol or CP-47,497-C8 homologue.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 453A.210 is hereby amended to read as follows:~~

~~453A.210 1. The Division shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section.~~

~~2. Except as otherwise provided in subsections 3 and 5 and NRS 453A.225, the Division or its designee shall issue a registry identification card to a person who is a resident of this State and who submits an application on a form prescribed by the Division accompanied by the following:~~

~~(a) Valid, written documentation from the person's attending physician stating that:~~

~~(1) The person has been diagnosed with a chronic or debilitating medical condition;~~

~~(2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and~~

~~(3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;~~

~~(b) The name, address, telephone number, social security number and date of birth of the person;~~

~~(c) Proof satisfactory to the Division that the person is a resident of this State;~~

~~(d) The name, address and telephone number of the person's attending physician; and~~

~~(e) If the person elects to designate a primary caregiver at the time of application:~~

~~(1) The name, address, telephone number and social security number of the designated primary caregiver; and~~

~~(2) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver.~~

~~3. The Division or its designee shall issue a registry identification card to a person who is under 18 years of age if:~~

~~(a) The person submits the materials required pursuant to subsection 2; and~~

~~(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement setting forth that:~~

~~(1) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;~~

~~(2) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;~~

~~(3) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and~~

~~(4) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.~~

~~4. The form prescribed by the Division to be used by a person applying for a registry identification card pursuant to this section must be a form that is in quintuplicate. Upon receipt of an application that is completed and submitted pursuant to this section, the Division shall:~~

~~(a) Record on the application the date on which it was received;~~
~~(b) Retain one copy of the application for the records of the Division; and~~
~~(c) Distribute the other four copies of the application in the following manner:~~

~~(1) One copy to the person who submitted the application;~~
~~(2) One copy to the applicant's designated primary caregiver, if any;~~
~~(3) One copy to the Central Repository for Nevada Records of Criminal History; and~~
~~(4) One copy to:~~

~~(I) If the attending physician of the applicant is licensed to practice medicine pursuant to the provisions of chapter 630 of NRS, the Board of Medical Examiners; or~~

~~(II) If the attending physician of the applicant is licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS, the State Board of Osteopathic Medicine.~~

~~➔ The Central Repository for Nevada Records of Criminal History shall report to the Division its findings as to the criminal history, if any, of an applicant within 15 days after receiving a copy of an application pursuant to subparagraph (3) of paragraph (c). The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall report to the Division its findings as to the licensure and standing of the applicant's attending physician within 15 days after receiving a copy of an application pursuant to subparagraph (4) of paragraph (c).~~

~~5. The Division shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within 30 days after receiving the application. The Division may contact an applicant, the applicant's attending physician and designated primary caregiver, if any, by telephone to determine that the information provided on or accompanying the application is accurate. The Division may deny an application only on the following grounds:~~

~~(a) The applicant failed to provide the information required pursuant to subsections 2 and 3 to:~~

~~(1) Establish the applicant's chronic or debilitating medical condition; or~~

~~(2) Document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with that condition;~~

~~(b) The applicant failed to comply with regulations adopted by the Division, including, without limitation, the regulations adopted by the Administrator pursuant to NRS 453A.740;~~

~~(c) The Division determines that the information provided by the applicant was falsified;~~

~~(d) The Division determines that the attending physician of the applicant is not licensed to practice medicine or osteopathic medicine in this State or is not in good standing, as reported by the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable;~~

~~(e) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable [, has]=~~

~~(1) Has been convicted of [knowingly or intentionally selling a controlled substance;] a felony in this State or under the laws of any state, territory or possession of the United States;~~

~~(2) Has been convicted of a crime involving the use or threatened use of force or violence against a victim in this State or any other state, territory or possession of the United States;~~

~~(3) Has been convicted of a sexual offense; or~~

~~(4) Is on parole or probation for a conviction obtained in this State or in any other state, territory or possession of the United States;~~

~~(f) The Division has prohibited the applicant from obtaining or using a registry identification card pursuant to subsection 2 of NRS 453A.300;~~

~~(g) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has had a registry identification card revoked pursuant to NRS 453A.225; or~~

~~(h) In the case of a person under 18 years of age, the custodial parent or legal guardian with responsibility for health care decisions for the person has not signed the written statement required pursuant to paragraph (b) of subsection 3.~~

~~6. The decision of the Division to deny an application for a registry identification card is a final decision for the purposes of judicial review. Only the person whose application has been denied or, in the case of a person under 18 years of age whose application has been denied, the person's parent or legal guardian, has standing to contest the determination of the Division. A judicial review authorized pursuant to this subsection must be limited to a determination of whether the denial was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in chapter 233B of NRS for reviewing a final decision of an agency.~~

~~7. A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the Division or a court of competent jurisdiction authorizes reapplication in a shorter time.~~

~~8. Except as otherwise provided in this subsection, if a person has applied for a registry identification card pursuant to this section and the Division has not yet approved or denied the application, the person, and the person's designated primary caregiver, if any, shall be deemed to hold a registry identification card upon the presentation to a law enforcement officer of the copy of the application provided to him or her pursuant to subsection 4. A person may not be deemed to hold a registry identification card for a period of more than 30 days after the date on which the Division received the application.~~

~~9. As used in this section ["resident"]:~~

~~(a) "Resident" has the meaning ascribed to it in NRS 483.141.~~

~~(b) "Sexual offense" means any offense listed in NRS 213.107 or any offense committed in another state, territory or possession of the United States that, if committed in this State, would be an offense listed in NRS 213.107.] (Deleted by amendment.)~~

~~Sec. 4. [NRS 453A.225 is hereby amended to read as follows:~~

~~453A.225 1. If, at any time after the Division or its designee has issued a registry identification card to a person pursuant to paragraph (a) of subsection 1 of NRS 453A.220, the Division determines, on the basis of official documents or records or other credible evidence, that the person:~~

~~(a) Provided falsified information on his or her application to the Division or its designee, as described in paragraph (c) of subsection 5 of NRS 453A.210; or~~

~~(b) Has been convicted of [knowingly or intentionally selling a controlled substance, as] an offense described in subparagraph (1), (2) or (3) of paragraph (c) of subsection 5 of NRS 453A.210;~~

~~the Division shall immediately revoke the registry identification card issued to that person and shall immediately revoke the registry identification card issued to that person's designated primary caregiver, if any.~~

~~2. If, at any time after the Division or its designee has issued a registry identification card to a person pursuant to paragraph (b) of subsection 1 of NRS 453A.220 or pursuant to NRS 453A.250, the Division determines, on the basis of official documents or records or other credible evidence, that the person has been convicted of [knowingly or intentionally selling a controlled substance, as] an offense described in subparagraph (1), (2) or (3) of paragraph (c) of subsection 5 of NRS 453A.210, the Division shall immediately revoke the registry identification card issued to that person.~~

~~3. Upon the revocation of a registry identification card pursuant to this section:~~

~~(a) The Division shall send, by certified mail, return receipt requested, notice to the person whose registry identification card has been revoked, advising the person of the requirements of paragraph (b); and~~

~~(b) The person shall return his or her registry identification card to the Division within 7 days after receiving the notice sent pursuant to paragraph (a).~~

~~4. The decision of the Division to revoke a registry identification card pursuant to this section is a final decision for the purposes of judicial review.~~

~~5. A person whose registry identification card has been revoked pursuant to this section may not reapply for a registry identification card pursuant to NRS 453A.210 for 12 months after the date of the revocation, unless the Division or a court of competent jurisdiction authorizes reapplication in a shorter time. (Deleted by amendment.)~~

Sec. 5. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484B.657;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;
14. Any violation of NRS 199.280 which is punished as a felony;
15. Burglary;
16. Grand larceny;
17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, ~~except a violation of~~ **and section 1 of this act**, or 453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
24. Receiving, possessing or withholding stolen goods valued at \$250 or more;
25. Embezzlement of money or property valued at \$250 or more;
26. Obtaining possession of money or property valued at \$250 or more, or obtaining a signature by means of false pretenses;

27. Perjury or subornation of perjury;
28. Offering false evidence;
29. Any violation of NRS 201.300 or 201.360;
30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;
31. Any violation of NRS 205.506, 205.920 or 205.930;
32. Any violation of NRS 202.445 or 202.446; or
33. Any violation of NRS 205.377.

Sec. 6. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, 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, 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, ~~except an act forbidden by~~ **and section 1 of this act**, 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.

Sec. 7. ~~1. The amendatory provisions of section 3 of this act apply to a person who:~~

~~(a) Submits an application for a registry identification card pursuant to NRS 453A.210 on or after October 1, 2011;~~

~~(b) Is designated as the primary caregiver of a person;~~

~~(1) On an application for a registry identification card which is submitted by that person pursuant to NRS 453A.210 on or after October 1, 2011; or~~

~~(2) Pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 453A.230 or paragraph (b) of subsection 1 of NRS 453A.250 on or after October 1, 2011.~~

~~2. The amendatory provisions of section 4 of this act apply to a person who holds a registry identification card only if:~~

~~(a) The registry identification card is issued to that person pursuant to paragraph (a) of subsection 1 of NRS 453A.220 and the person:~~

~~(1) Submits the application for that registry identification card pursuant to NRS 453A.210 on or after October 1, 2011; or~~

~~(2) Is convicted of an offense described in NRS 453A.210, as amended by section 4 of this act, on or after October 1, 2011.~~

~~(b) The registry identification card is issued to that person pursuant to paragraph (b) of subsection 1 of NRS 453A.220 and:~~

~~(1) The application in which the person is designated as the primary caregiver of a person is submitted pursuant to NRS 453A.210 on or after October 1, 2011;~~

~~(2) On or after October 1, 2011, the person is designated as the primary caregiver of a person pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 453A.230 or paragraph (b) of subsection 1 of NRS 453A.250; or~~

~~(3) The person is convicted of an offense described in NRS 453A.210, as amended by section 4 of this act, which occurred on or after October 1, 2011. **(Deleted by amendment.)**~~

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 211 revises the provisions to Senate Bill No. 256 by removing provisions related to synthetic marijuana and the medical marijuana program. It removes the provisions of a gross misdemeanor for a certain number of marijuana plants. The amendment also revises the number of plants that constitute a category E felony.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 262.

Bill read second time.

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

Amendment No. 190.

"SUMMARY—Provides for the incorporation of the City of Laughlin contingent upon the approval of the voters in the City. (BDR S-125)"

"AN ACT providing a charter for the City of Laughlin, in Clark County, Nevada; providing for an election to be held on the question of incorporation;

making the incorporation of the City contingent upon approval of this act by qualified electors of the City; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Legislature may provide for the incorporation of a city by a special act. (Nev. Const. Art. 8, 8) **Section 1** of this bill provides a charter for the City of Laughlin. **Section 4** of this bill requires the Committee on Local Government Finance to prepare a report with respect to the fiscal feasibility of the incorporation of the City of Laughlin and submit it to the Board of County Commissioners of Clark County by December 31, 2011. **Sections 5 and 17** of this bill make the incorporation of the City of Laughlin contingent upon the approval of the Charter by the qualified electors of the City. **Sections 5-9** of this bill provide for the Board of County Commissioners of Clark County to conduct an election on the question of incorporation and a consolidated primary election for candidates for City Council and Mayor. **Sections 11 and 12** of this bill provide for a general election of members of the City Council and a Mayor, contingent upon the approval of incorporation. **Section 10** of this bill authorizes the Board of County Commissioners to accept gifts, grants and donations to pay for any expenses associated with incorporation, including, without limitation, the costs of the Committee on Local Government Finance for preparing the fiscal feasibility report and for the election held on the question of incorporation and the general election of the Mayor and City Council. **Sections 2 and 10** of this bill provide that to the extent that gifts, grants and donations do not cover such expenses, the Board of County Commissioners shall use the Fort Mohave Valley Development Fund to pay the costs.

Sections 13-15 of this bill authorize the elected City Council to perform various functions before the effective date of incorporation, including preparing and adopting a budget, preparing and adopting ordinances, negotiating and preparing contracts for personnel and various services, ~~and~~ negotiating with Clark County for the equitable apportionment of the fixed assets of Clark County that are located in the City of Laughlin ~~+~~ and negotiating and preparing certain cooperative agreements with the County. **Section 17** provides for the effective date of incorporation, which will be July 1, 2013.

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

Section 1. The Charter of the City of Laughlin is as follows. Each section of the Charter shall be deemed to be a section of this act for the purpose of any subsequent amendment.

ARTICLE I

**INCORPORATION OF CITY; GENERAL POWERS; BOUNDARIES; ANNEXATIONS;
CITY OFFICES**

Section 1.010 Preamble: Legislative intent; powers.

1. *In order to provide for the orderly government of the City of Laughlin and the general welfare of its residents, the Legislature hereby establishes this Charter for the government of the City of Laughlin. It is expressly declared as the intent of the Legislature that all provisions of this Charter be liberally construed to carry out the express purposes of the Charter and that the specific mention of particular powers shall not be construed as limiting in any way the general powers necessary to carry out the purposes of the Charter.*

2. *Any powers expressly granted by this Charter are in addition to any powers granted to a city by the general law of this State. All provisions of the Nevada Revised Statutes which are applicable generally to cities, unless otherwise expressly mentioned in this Charter or chapter 265, 266 or 267 of NRS, and which are not in conflict with the provisions of this Charter apply to the City of Laughlin.*

Sec. 1.020 Incorporation of City.

1. *All persons who are inhabitants of that portion of the State of Nevada embraced within the limits set forth in section 1.030 shall constitute a political and corporate body by the name of "City of Laughlin," and by that name they and their successors shall be known in law, have perpetual succession and may sue and be sued in all courts.*

2. *Whenever used throughout this Charter, "City" means the City of Laughlin.*

Sec. 1.030 Description of territory. The territory embraced in the City is hereby defined and established as follows:

1. *All those portions of Township 32 South, Range 64 East; Township 32 South, Range 65 East; Township 32 South, Range 66 East; Township 33 South, Range 65 East; Township 33 South, Range 66 East; Township 34 South, Range 66 East, M.D.B. & M., which are located in the County of Clark, State of Nevada.*

2. *Excepting therefrom the following described land:*

(a) *That land referred to as the Fort Mojave Indian Reservation, approximately 3,842 acres of land, being a portion of Sections 17, 19, 20 thru 22, 27 thru 28, 30 thru 33 and all of Section 29 of Township 33 South, Range 66 East, Clark County, Nevada, and a portion of Section 5 of Township 34 South, Range 66 East, Clark County, Nevada.*

(b) *Further excepting therefrom Township 34 South, Range 66 East, M.D.B. & M., Clark County, Nevada.*

(c) *Further excepting therefrom the following described Parcels of land referred to as the "Hotel Corridor":*

(1) *Parcel 1. The South Half (S 1/2) of the South Half of Section 12 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom State Route 163 recorded in Book 920722 as Instrument 00564, Official Records of Clark County, Nevada, together with Parcel 1 of File 70 of Parcel Maps at Page 20, Official Records of Clark County Nevada, also together with Civic Way recorded in Book 910906 as*

Instrument Number 00680, Official Records of Clark County, Nevada, lying within the South Half (S 1/2) of the South Half (S 1/2) of said Section 12.

(2) Parcel 2. Section 13, Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom that remaining portion of Parcel 1 of File 53 of Parcel Maps at Page 53, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 13, more particularly described as beginning at the Northeast corner of said Parcel 1, said point being on the Southerly right-of-way line of Bruce Woodbury Drive (90.00 feet wide); thence departing said Southerly right-of-way line and along the Easterly line of said Parcel 1, South 01°08'21" West, 100.00 feet to the Northerly line of Parcel 4 as shown by map thereof recorded in File 98 of Parcel Maps at Page 17, Official Records of Clark County, Nevada; thence along said Northerly line of Parcel 4 the following 2 courses: South 89°59'51" East, 75.00 feet; North 01°28'01" East, 100.00 feet to said Southerly right-of-way and said Northerly line of Parcel 1; thence along said Southerly right-of-way line and along said Northerly line of Parcel 1, South 89°59'51" East, 75.00 feet to the Point of Beginning.

(3) Parcel 3. Section 24 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada excepting therefrom Government Lots 7 & 8 of said Section 24, together with Lots 1 & 2 of File 54 of Parcel Maps at Page 79, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 24.

Sec. 1.040 Limitation on future annexation. Notwithstanding any provision of law to the contrary, no area may be annexed into the boundaries of the City unless a majority of the owners of the real property that make up the area petition the City Council for annexation into the City.

Sec. 1.050 Form of government.

1. The municipal government provided by this Charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the Constitution of this State and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council," which shall:

- (a) Enact local legislation;*
- (b) Adopt budgets;*
- (c) Determine policies; and*
- (d) Appoint the City Manager, who shall execute the laws and administer the government of the City.*

2. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance.

Sec. ~~1.050~~ 1.060 Construction of Charter. This Charter, except where the context by clear implication otherwise requires, must be construed as follows:

- 1. The titles or leadlines which are applied to the articles and sections of this Charter are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provision of this Charter.*
- 2. The singular number includes the plural number, and the plural includes the singular.*
- 3. The present tense includes the future tense.*

ARTICLE II

CITY COUNCIL

Sec. 2.010 Number; selection and term; recall. The Council shall have four Council members and a Mayor elected from the City at large in the manner provided in Article X, for terms of 4 years and until their successors have been elected and have taken office as provided in section 2.100, subject to recall as provided in Article XI. No Council member shall represent any particular constituency or district of the City, and each Council member shall represent the entire City.

Sec. 2.020 Qualifications.

1. No person shall be eligible for the office of Council member or Mayor unless he or she is a qualified elector of the City and has been a resident of the City for at least 1 year immediately before the election in which he or she is a candidate. He or she shall hold no other elective public office, but may hold a commission as a notary public or be a member of the Armed Forces reserve. No employee of the City or officer thereof, excluding Council members, receiving compensation under the provisions of this Charter or any City ordinance, shall be a candidate for or eligible for the office of Council member or Mayor without first resigning from city employment or city office.

2. If a Council member or the Mayor ceases to possess any of the qualifications enumerated in subsection 1 or is convicted of a felony, or ceases to be resident of the City, his or her office shall immediately become vacant.

Sec. 2.030 Salaries.

1. For the first 2 years after election of the first members of the Council after adoption of this Charter, each member of the Council shall receive as compensation for his or her services as such a monthly salary of \$125.00, and the member elected to fill the Office of Mayor shall receive the additional amount of \$25.00 for each month said member shall fill the Office of Mayor.

2. After the period specified in subsection 1, the Council may determine the annual salaries of the Mayor and Council members by ordinance. The Council shall not adopt an ordinance which increases or decreases the

salary of the Mayor or the Council members during the term for which they have been elected or appointed.

3. Absence of a member of the Council from all regular and special meetings of the Council during any calendar month shall render him or her ineligible to receive the monthly salary for such a calendar month unless by permission of the Council expressed in its official minutes.

4. The Mayor and Council members shall be reimbursed for their personal expenses when conducting or traveling on city business as authorized by the Council. Reimbursement for use of their personal automobiles will be at the rate per mile established by the rules of the Internal Revenue Service of the United States.

5. The Mayor and Council members shall receive no additional compensation or benefit other than that mandated by state or federal law.

Sec. 2.040 Mayor; Mayor Pro Tem; duties.

1. The Mayor shall:

(a) Serve as a member of the Council and preside over its meetings;
(b) Have no administrative duties; and
(c) Be recognized as the head of the city government for all ceremonial purposes and for the purposes of dealing with emergencies if martial law has been imposed on the City by the State or Federal Government.

2. The Council shall elect one of its members to be Mayor Pro Tem, who shall:

(a) Hold such office and title, without additional compensation, for the period of 1 year;

(b) Perform the duties of the Mayor during the absence or disability of the Mayor; and

(c) Assume the position of Mayor, if that office becomes vacant, until the next regular election.

Sec. 2.050 Powers. Except as otherwise provided in this Charter, all powers of the City and the determination of all matters of policy shall be vested in the Council. The Council shall have, without limitation, the power to:

1. Establish other administrative departments and distribute the work of divisions.

2. Adopt the budget of the City.

3. Adopt civil service rules and regulations.

4. Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.

5. Appoint the members of all boards, commissions and committees for specific or indefinite terms as provided elsewhere in this Charter or in various resolutions or ordinances, with all such persons serving at the pleasure of the Council, provided, however, that all persons so appointed must be and remain bona fide residents of the City during the tenure of each appointment.

6. Levy such taxes as are authorized by applicable laws.

Sec. 2.060 Powers: Zoning and Planning. The Council may:

1. Divide the City into districts and regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the districts.

2. Establish and adopt ordinances and regulations relating to the subdivision of land.

Sec. 2.070 Council not to interfere in removals.

1. Neither the Council nor any of its members shall direct or request the removal of any person from office by the City Manager or by any of his or her subordinates, or in any manner take part in the removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry and as otherwise provided in this Charter, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

2. Any Council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, is guilty of a misdemeanor and upon conviction thereof shall cease to be a Council member.

Sec. 2.080 Vacancies in Council. Except as otherwise provided in NRS 268.325, a vacancy on the Council must be filled by appointment by a majority of the remaining members of the Council within 30 days or after three regular or special meetings, whichever is the shorter period of time. In the event of a tie vote among the remaining members of the Council, selection must be made by lot. No such appointment extends beyond the next municipal election.

Sec. 2.090 Creation of new departments or offices; change of duties. The Council by ordinance may:

1. Create, change and abolish offices, departments or agencies, other than offices, departments and agencies established by this Charter.

2. Assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

Sec. 2.100 Induction of Council into office; meetings of Council. The Council shall meet within 10 days after each city primary election and each city general election specified in Article X, to canvass the returns and to declare the results. All newly elected or reelected Mayor or Council members shall be inducted into office at the next regular Council meeting following certification of the applicable city general election results. Immediately following such induction, the Mayor Pro Tem shall be designated as provided in section 2.040. Thereafter, the Council shall meet regularly at such times as it shall set by resolution from time to time, but not less frequently than once each month.

Sec. 2.110 Council to be judge of qualifications of its members. The Council shall be the judge of the election and qualifications of its members and for such purpose shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in any such case shall be subject to review by the courts.

Sec. 2.120 Rules of procedure.

1. The Council shall establish rules by ordinance for the conduct of its proceedings and to preserve order at its meetings. It shall, through the City Clerk, maintain a journal record of its proceedings which shall be open to public inspection. Any member of the Council may place items on the Council agenda to be considered by the Council.

2. The Council may organize special committees of its members for the principal functions of the government of the City. It shall be the duty of each such committee to be informed of the business of the city government included within the assigned functions of the committee, and, as ordered by the Council, to report to the Council information or recommendations which shall enable the Council properly to legislate.

Sec. 2.130 Investigations by Council.

1. The Council shall have power to inquire into the conduct of any office, department, agency or officer of the City and to make investigations as to municipal affairs. The Council shall have the power and authority on any investigation or proceeding pending before it to impel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council.

2. Subpoenas may be issued in the name of the City pursuant to subsection 1 and may be attested by the City Clerk. Disobedience of such subpoenas or the refusal to testify upon other than constitutional grounds shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

Sec. 2.140 Council's power to make and pass ordinances, resolutions.

1. The Council shall have the power to make and pass all ordinances, resolutions and orders, not repugnant to the Constitution of the United States or of the State of Nevada or to the provisions of this Charter, necessary for the municipal government and the management of the city affairs, for the execution of all powers vested in the City, and for making effective the provisions of this Charter.

2. The Council shall have the power to enforce obedience to its ordinances by such fines, imprisonments or other penalties as the Council may deem proper, but the punishment for any offense shall not be greater than the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time such offense occurred.

3. The Council may enact and enforce such local police ordinances as are not in conflict with the general laws of the State of Nevada.

4. *Any offense made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor in the City of Laughlin whenever such offense is committed within the city limits.*

Sec. 2.150 Voting on ordinances and resolutions.

1. *No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the Council.*

2. *The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. Upon the request of any member of the Council, the ayes and noes shall be taken and recorded upon any vote. All members of the Council present at any meeting shall vote, except upon matters in which they have financial interest or when they are reviewing an appeal from a decision of a city commission, before which they have appeared as an advocate for or an adversary against the decision being appealed.*

Sec. 2.160 Enactment of ordinances; subject matter, titles.

1. *No ordinance shall be passed except by bill, and when any ordinance is amended, the section or sections thereof must be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.*

2. *Every ordinance, except those revising the city ordinances, shall embrace but one subject and matters necessarily connected therewith and pertaining thereto, and the subject shall be clearly indicated in the title, and in all cases where the subject of the ordinance is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.*

Sec. 2.170 Introduction of ordinances; notice; final action; publication.

1. *The style of ordinances must be as follows: "The Council of the City of Laughlin does ordain." All proposed ordinances, when first proposed, must be read by title to the Council, after which an adequate number of copies of the ordinance must be deposited with the City Clerk for public examination and distribution upon request. Notice of the deposit of the copies, together with an adequate summary of the ordinance, must be published once in a newspaper published in the City, if any, otherwise in some newspaper published in the County which has a general circulation in the City, at least 10 days before the adoption of the ordinance. At any meeting at which final action on the ordinance is considered, at least one copy of the ordinance must be available for public examination. The Council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days after the date of publication, except that in cases of emergency, by unanimous consent of the whole Council, final action may be taken immediately or at a special meeting called for that purpose.*

2. *After final adoption, the ordinance must be signed by the Mayor, and, together with the votes cast on it, must be:*

(a) *Published by title, together with an adequate summary including any amendments, once in a newspaper published in the City, if any, otherwise*

in a newspaper published in the County and having a general circulation in the City; and

(b) Posted in full in the city hall.

3. *Except as otherwise provided in subsections 4 and 5, all ordinances become effective 20 days after publication.*

4. *Emergency ordinances having for their purpose the immediate preservation of the public peace, health or safety, containing a declaration of and the facts constituting its urgency and passed by a four-fifths vote of the Council, and ordinances calling or otherwise relating to a municipal election, become effective on the date specified therein.*

5. *All ordinances having for their purpose the lease or sale of real estate owned by the City, except city-owned subdivision or cemetery lots, may be effective not fewer than 5 days after the publication.*

Sec. 2.180 Adoption of specialized, uniform codes. An ordinance adopting any specialized or uniform building, plumbing or electrical code or codes, printed in book or pamphlet form or any other specialized or uniform code or codes of any nature whatsoever so printed, may adopt such code, or any portion thereof, with such changes as may be necessary to make the same applicable to conditions in the City, and with such other changes as may be desirable, by reference thereto, without the necessity of reading the same at length. Such code, upon adoption, need not be published if an adequate number of copies of such code, either typewritten or printed, with such changes, if any, have been filed for use and examination by the public in the Office of the City Clerk at least 1 week before the passage of the ordinance adopting the code, or any amendment thereto. Notice of such filing shall be given in accordance with the provisions of subsection 2 of section 2.170.

Sec. 2.190 Codification of ordinances; publication of Code.

1. *The Council shall have the power to codify and publish a code of its municipal ordinances in the form of a Municipal Code, which Code may, at the election of the Council, have incorporated therein a copy of this Charter and such additional data as the Council may prescribe.*

2. *The ordinances in the Code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, attestations and other formal parts.*

3. *The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Laughlin."*

4. *The codification may, by ordinance regularly passed, adopted and published, be amended or extended.*

Sec. 2.200 Independent annual audit. Before the end of each fiscal year, the Council shall designate qualified accountants who, as of the end of the fiscal year, shall make a complete and independent audit of accounts

and other evidences of financial transactions of the city government and shall submit their report to the Council and to the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the Council, shall postaudit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

ARTICLE III

CITY MANAGER

Sec. 3.010 Appointment and qualifications.

1. The Council shall appoint a City Manager by a majority vote who by virtue of his or her position as City Manager shall be an officer of the City and who shall have the powers and shall perform the duties in this Charter provided. No member of the Council shall receive such appointment during the term for which he or she shall have been elected, nor within 1 year after the expiration of his or her term.

2. The City Manager shall be chosen on the basis of his or her executive and administrative qualifications. The City Manager shall be paid a salary commensurate with his or her responsibilities as Chief Administrative Officer of the City as set by resolution of the Council.

3. The Council shall appoint the City Manager for an indefinite term and may remove him or her in accordance with the procedures set forth in section 3.020.

Sec. 3.020 Removal.

1. Before removal of the City Manager may become effective, the Council must adopt, by the affirmative votes of at least four members, a resolution that must state the reasons for the proposed removal of the City Manager and may provide for the suspension of the City Manager from duty, but shall in any case cause to be paid him or her forthwith any unpaid balance of his or her salary and his or her salary for the next calendar month following the date of adoption of the resolution. A copy of the resolution must be delivered promptly to the City Manager.

2. The City Manager may reply in writing, and any member of the Council may request a public hearing, which, if requested, shall be held not earlier than 20 days or later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Council may remove the City Manager by motion adopted by the affirmative votes of at least four members of the Council.

Sec. 3.030 Powers and duties. The City Manager shall be the Chief Administrative Officer and the Head of the Administrative Branch of the city government. The City Manager shall be responsible to and under the direction of the Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers,

responsibilities, and duties, the City Manager shall have the power and be required to:

1. Subject to the civil service rules and regulations adopted by the Council, and with the approval of the Council, appoint all department heads and officers of the City except those officers the power of appointment of whom is vested in the Council and as otherwise provided in this Charter;

2. Subject to the civil service rules and regulations adopted by the Council and ordinances adopted pursuant thereto, pass upon and approve all proposed appointments and removals of subordinate employees, by all officers and heads of offices, agencies and departments;

3. Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;

4. Prepare and submit to the Council at the end of the fiscal year a complete report of the finances and administrative activities of the City for the preceding fiscal year;

5. Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable;

6. Keep himself or herself informed of the activities of the several agencies, offices and departments of the City and see to the proper administration of their affairs and the efficient conduct of their business;

7. Be vigilant and active in causing all provisions of the law to be executed and enforced;

8. Perform all such duties as may be prescribed by this Charter or required of him or her by the Council, not inconsistent with this Charter;

9. Submit a monthly report to the Council covering significant activities of the city agencies, offices and departments under his or her supervision and any significant changes in administrative rules and procedures promulgated by him or her; and

10. Submit special reports in writing to the Council in answer to any requests for information filed with the City Manager by a member of the Council.

Sec. 3.040 Seat at Council table. The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote. The City Manager shall attend all regular and special meetings of the Council unless physically unable to do so or unless his or her absence has received prior approval by a majority of the Council.

Sec. 3.050 Absence, disability. To perform his or her duties during his or her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk one of the other officers or department heads of the City to serve as acting City Manager during such temporary absence or disability. Such designation shall be subject to change thereof by the Council. In the event of the failure of the City Manager to make

such a designation, the Council may by resolution appoint an officer or department head of the City to perform the duties of the City Manager until he or she shall be prepared to resume the duties of office.

ARTICLE IV

OFFICERS AND EMPLOYEES

Sec. 4.010 City administrative organization.

1. The Council may provide by ordinance not inconsistent with this Charter for the organization, conduct and operation of the several offices, departments and other agencies of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their alteration or abolition, for their assignment and reassignment to departments, and for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

2. The Council by ordinance may assign additional functions or duties to offices, departments or other agencies established by this Charter, but, except as otherwise provided in subsection 3, shall not discontinue or assign to any other office, department or other agency any function or duty assigned by this Charter to a particular office, department or agency. No office provided in this Charter, to be filled by appointment by the City Manager, shall be combined with an office provided in this Charter to be filled by appointment by the Council.

3. Notwithstanding the foregoing, the Council may transfer or consolidate functions of the city government to or with appropriate functions of the state or county government and, in case of any such transfer or consolidation, the provisions of this Charter providing for the functions of the city government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by ordinance.

4. Subject to the civil service rules and regulations adopted by the Council and section 3.020 of Article III, all officers and department heads of the City, except the City Attorney, Municipal Judge and the City Clerk, shall be appointed by the City Manager and shall thereafter serve at the pleasure of the City Manager.

5. Officers of the City appointed by the Council shall be required to reside within the city limits within 3 months of appointment. Employees of the City shall be required to live within a 50-mile radius of the City within 6 months of employment.

Sec. 4.020 Officers appointed by the Council.

1. In addition to the City Manager, the Council shall appoint the City Attorney and the Municipal Judge, if required pursuant to section 5.020 of Article V, who shall serve at the pleasure of the Council and may be

removed by motion of the Council adopted by the affirmative votes of at least four members of the Council.

2. Subject to the provisions of this Charter and rules and regulations adopted by the Council, the Council shall appoint the City Clerk who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of three members of the Council.

3. The appointments of city officers pursuant to subsections 1 and 2 shall be for indefinite terms, and each such officer shall receive such compensation and other benefits as may be determined by resolution of the Council from time to time.

4. Any city officer may be temporarily suspended with full pay at any time by a majority vote of the Council, but no city officer may be removed from office unless he or she has first been given an opportunity for a hearing before the Council, at his or her request, with not less than 7 days' prior notice of the time and place of the hearing. Such hearing may be either public or private, as requested by the officer, and at the hearing, the officer may be assisted by his or her own legal counsel. Any action of the Council following such hearing shall be considered final and conclusive. If a city officer is so removed, the Council will appoint a person as a temporary replacement to perform the duties of the removed officer, and will appoint a qualified person as a permanent replacement officer as soon as practicable.

5. No person shall be appointed as a city officer who is a grandparent, parent, uncle, aunt, brother, sister, nephew, niece, child or grandchild, by birth, marriage or adoption, of a city officer, employee or Council member at the time of appointment.

Sec. 4.030 City Clerk powers and duties. The City Clerk shall have the power and be required to:

1. Receive all documents addressed to the Council and present such documents to the Council.

2. Attend all meetings of the Council and its committees and be responsible for:

(a) Recording and maintaining an accurate journal of Council proceedings;

(b) Recording the ayes and noes in the final action upon the questions of granting franchises, making of contracts, approving of bills, disposing of or leasing city property, the passage or reconsideration of any ordinance, or upon any other act that involves the payment of money or the incurring of debt by the City; and

(c) Other duties as required upon the call of any member of the Council.

3. Maintain the journal of Council proceedings in books which shall bear appropriate titles and which shall be available for public inspection.

4. Maintain separate books in which shall be recorded respectively all ordinances and resolutions, with the certificate of the City Clerk annexed to each thereof stating the same to be the original or a correct copy, and as

to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter, and maintain all such books properly indexed and available for public inspection when not in actual use.

5. Have charge of the repository for contracts, surety bonds, agreements, and other related documents of City business.

6. Maintain custody of the City seal.

7. Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and issue certified copies of official City records.

8. Conduct all City elections.

Sec. 4.040 City Attorney; qualifications, power and duties.

1. The City Attorney shall be an attorney at law duly licensed under the laws of the State of Nevada. He or she shall devote such time to the duties of his or her office as may be specified in the ordinance or resolution fixing the compensation of such office. If practicable, the Council shall appoint an attorney who has had special training or experience in municipal corporation law.

2. The City Attorney shall have the power and be required to:

(a) Represent and advise the Council and all city officers in all matters of law pertaining to their offices;

(b) Attend all meetings of the Council and give his or her advice or opinion in writing whenever requested to do so by the Council or by any of the officers and boards of the City;

(c) Prepare or approve all proposed ordinances and resolutions for the City, and amendments thereto;

(d) Prosecute on behalf of the people such criminal cases for violation of this Charter or city ordinances, and of misdemeanor offenses and infractions arising upon violations of the laws of the State as, in his or her opinion, that of the Council or of the City Manager, warrant his or her attention;

(e) Represent and appear for the City, any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which the City or any such officer or employee, in or by reason of his or her official capacity, is concerned or is a party;

(f) Approve the form of all bonds given to, and all contracts made by, the City, endorsing his or her approval thereon in writing; and

(g) On vacating the office, surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

3. The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

Sec. 4.050 Director of Finance; qualifications, powers and duties.

1. The person appointed by the City Manager for the position of Director of Finance shall be qualified to administer and direct an integrated Department of Finance.

2. The Director of Finance shall have the power and be required to:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager.

(b) Supervise and be responsible for the disbursement of all money and have control over all expenditures to ensure that budget appropriations are not exceeded.

(c) Supervise a system of financial internal control including the auditing of all purchase orders before issuance, the auditing and approving before payment of all invoices, bills, payrolls, claims, demands or other charges against the City, and, with the advice of the City Attorney, when necessary, determining the regularity, legality and correctness of such charges.

(d) With the advice of the City Attorney, settle claims, demands or other charges, including the issuing of warrants therefor.

(e) Maintain general and cost accounting systems for the city government and each of its offices, departments and other agencies.

(f) Keep separate accounts for the items of appropriation contained in the city budget. Each account shall show the amount of appropriations, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance.

(g) Require reports of the receipts and disbursements from each receiving and expending agency of the city government to be made daily or at such intervals as he or she may deem expedient.

(h) Submit to the Council through the City Manager a monthly statement of all receipts and disbursements and other financial data in sufficient detail to show the exact financial condition of the City, and, as of the end of each fiscal year, submit a complete financial statement and report.

(i) Administer the license and business tax program of the City.

(j) Direct treasury administration for the City, including, without limitation:

(1) Receiving and collecting revenues and receipts from whatever source;

(2) Maintaining custody of all public funds belonging to or under the control of the City or any office, department or other agency of the city government; and

(3) Depositing all funds coming into his or her hands in such depository as may be designated by resolution of the Council, or, if no such resolution is adopted, by the City Manager, in compliance with all of the provisions of the Constitution and laws of this State governing the handling, depositing, and securing of public funds.

(k) Direct centralized purchasing and a property control system for the city government under rules and regulations to be prescribed by ordinance.

Sec. 4.060 Performance review. On or before the annual anniversary date of the appointment of persons serving in the positions of City Manager, City Attorney and City Clerk, the Council shall review and evaluate the performance of such appointees.

Sec. 4.070 Appointment powers of department heads. Subject to the approval of the City Manager and subject to civil service rules and regulations adopted by the Council, each head of a department, office or other agency shall have the power to appoint and remove such deputies, assistants, subordinates and employees as are provided for by the Council for his or her department, office or other agency.

ARTICLE V

JUDICIAL

Sec. 5.010 Municipal court. The municipal court must be presided over by the Justice of the Peace of Laughlin Township as ex officio municipal judge.

Sec. 5.020 Municipal judge appointed. If the Office of Justice of the Peace of Laughlin Township ceases to exist, the municipal court shall be presided over by a municipal judge appointed by the Council.

ARTICLE VI

CITY BUDGETS

Sec. 6.010 Budgets. Budgets for the City shall be prepared in accordance with and shall be governed by the provisions of the general laws of the State pertaining to budgets of cities.

ARTICLE VII

PUBLIC IMPROVEMENTS AND REPAIRS

Sec. 7.010 Expenses of improvements; payment by funds or by special assessments. The expenses of public improvements and repairs, such as the improvement of streets and alleys by grading, paving, graveling and curbing, the construction, repair, maintenance and preservation of sidewalks, drains, curbs, gutters, storm sewers, drainage systems, sewerage systems and sewerage disposal plants, may be paid from the General Fund or Street Fund or the cost or portion thereof as the Council shall determine, may be defrayed by special assessments upon lots and premises abutting upon that part of the street or alley so improved or proposed so to be, or the land abutting upon such improvement and such other lands as in the opinion of the Council may benefit by the improvement all in the manner contained in the provisions of the Nevada Revised Statutes.

ARTICLE VIII

CITY ASSESSOR; TAX RECEIVER; FINANCES AND PURCHASING

Sec. 8.010 Clark County Assessor to be ex officio City Assessor. The County Assessor of Clark County shall, in addition to the duties now imposed upon him or her by law, act as the Assessor of the City and shall be ex officio City Assessor, without further compensation. He or she shall

perform such duties as the Council may by ordinance prescribe with the County Assessor's consent.

Sec. 8.020 Clark County Treasurer to be ex officio City Tax Receiver. The County Treasurer of Clark County shall, in addition to the duties now imposed upon him or her by law, act as ex officio City Tax Receiver. He or she shall receive and safely keep all moneys that come to the City by taxation, and shall pay the same to the Director of Finance. The City Tax Receiver may, with the consent of the Council, collect special assessments which may be levied by authority of this Charter or city ordinance when they become due and payable, and whenever and wherever the general laws of the State of Nevada regarding the authorized acts of tax receivers may be, the same hereby are, made applicable to the City Tax Receiver of the City of Laughlin, in the collection of city special assessments.

Sec. 8.030 Procedures for city purchasing. All purchases of goods or services of every kind or description for the City by any office, commission, board, department or any division thereof shall be made in conformance with the Nevada Revised Statutes, as amended from time to time.

Sec. 8.040 Transfer of appropriations. The City Manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency.

Sec. 8.050 When contracts and expenditures prohibited.

1. No officer, department or agency shall, during any budget 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, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the City who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his or her office or employment.

2. Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

ARTICLE IX

APPOINTIVE BOARDS AND COMMISSIONS

Sec. 9.010 Established; enumerated.

1. The Council may create by ordinance such other appointive boards or commissions as in its judgment are required and may grant to them powers and duties as are consistent with the provisions of this Charter. The Council, by motion adopted by the affirmative votes of at least a majority of its members, may appoint from time to time temporary committees as deemed advisable to render counsel and advice to the appointing

authorities on any designated matters or subjects within the jurisdiction of such authorities.

2. The Personnel Board is hereby established and has the powers and duties contained in this Article.

Sec. 9.020 Appointments, removals, vacancies, terms.

1. Except as otherwise specified in this Charter, the members of each of the appointive boards and commissions shall be appointed, and may be removed, by the Council, subject in both appointment and removal by the affirmative votes of a majority of the Council. For the purposes of this rule, residency is only required at the time of nomination.

2. If a member of a board or commission:

(a) Is absent from two regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes;

(b) Fails to attend at least one-half of the regular meetings of such board or commission within a calendar year;

(c) Is convicted of a crime involving moral turpitude; or

(d) Ceases to be a qualified elector of the City,

→ the office of that member shall become vacant and shall be so declared by the Council.

3. Except as otherwise provided in subsection 2 or section 9.030, the members of such boards and commissions shall serve for a term of 2 years and until their respective successors are appointed and qualified.

Sec. 9.030 Prohibition against serving as treasurer for campaign committee. If any member of an appointive board or commission shall become the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member, his or her office shall become vacant and shall be so declared by the Council. Any provisions of this Article notwithstanding, no person who serves as the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member shall be eligible for appointment to any appointive board or commission.

Sec. 9.040 Appropriations therefor. The Council shall include in its annual budget such appropriations of funds as, in its opinion, shall be sufficient for the efficient and proper functioning of such appointive boards and commissions.

Sec. 9.050 Meetings; chair.

1. The election of each chair and vice chair shall be held at the meetings of the respective boards and commissions during the month of July of each year. The board or commission, in the event of a vacancy in the office of the chair or vice chair, shall elect one of its members for the unexpired term. The chair shall have the responsibility for informing the Council or board, commission or committee of actions or inactions and the reasons therefor.

2. Each board or commission, other than the Personnel Board, shall hold a regular meeting at least once a month with reasonable provision for attendance by the public. The City Manager shall designate a secretary for the recording of minutes for each such board and commission, who shall keep a record of its proceedings and transactions. Each board and commission shall prescribe rules and regulations governing its operations which shall be consistent with this Charter and shall be filed with the City Clerk for public inspection. The Personnel Board shall meet monthly, provided there is business on the agenda to come before it. In the event no business is placed on the Personnel Board's agenda 5 days preceding the tentative meeting date, no meeting need be held, provided that in no event shall more than 3 months intervene between meetings of the Personnel Board.

Sec. 9.060 Compensation. The members of appointive boards and commissions shall receive such compensation, if any, as may be prescribed by ordinance and may receive reimbursement for necessary traveling and other expenses when on official duty of the City when such expenditure has been so authorized by the board or commission and subject to rules and regulations prescribed by ordinance or order of the Council.

Sec. 9.070 Attendance of witnesses; oaths and affirmations. Each appointive board or commission shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of any such board or commission shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.

Sec. 9.080 Personnel Board: Membership. The Personnel Board shall consist of five members to be appointed by the Council from the qualified electors of the City. None of the members shall be removed from office without reasonable and sufficient cause, in accordance with procedures as provided by ordinance. None of the members shall hold public office or employment in the city government or be a candidate for any other public office or position, be an officer of any local, state or national partisan political club or organization, or while a member of the Personnel Board or for a period of 1 year after he or she has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the City.

Sec. 9.090 Personnel Board: Powers and duties. The Personnel Board shall have the power and be required to:

1. Hear appeals pertaining to the disciplinary suspension, demotion or dismissal of any officer or employee having permanent status in any office, position or employment in the civil service, and as otherwise provided for in the civil service rules and regulations;

2. *Consider matters that may be referred to it by the Council or the City Manager and render such counsel and advice in regard thereto as may be requested by the referring authorities;*

3. *By its own motion, make such studies and investigations as it may deem necessary for the review of civil service rules and regulations, or to determine the wisdom and efficacy of the rules, regulations, policies, plans and procedures dealing with civil service matters and report its findings and recommendations to the City Manager or the Council, or to both such authorities, as it may see fit; and*

4. *Conduct public hearings on proposed revisions of civil service rules and regulations in the manner as prescribed by ordinance and advise the Council of its findings in such matters within 60 days.*

ARTICLE X

CITY ELECTIONS

Sec. 10.010 Applicability of state election laws. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the Council which are consistent with law and this Charter.

Sec. 10.020 Terms. All full terms of office in the Council are 4 years, and Council members and the Mayor must be elected at large without regard to precinct residency. Two full-term Council members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council members are to be elected in each year immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions.

Sec. 10.030 Specific Council positions. In the event a 2-year term position on the Council will be available at the time of a municipal election as provided in section 10.020, a candidate must file specifically for such a position. The candidate receiving the greatest respective number of votes must be declared elected to the available 2-year position.

Sec. 10.040 Primary municipal elections. A city primary election must be held on the first Tuesday after the first Monday in April of each odd-numbered year, and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

Sec. 10.050 Primary not required. A primary election must not be held if not more than double the number of Council members to be elected file as candidates. A primary election must not be held for the Office of Mayor if not more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected.

Sec. 10.060 General election not required. If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he or she shall be considered elected to one of the

vacancies and his or her name shall not be placed on the ballot for the general city election.

Sec. 10.070 Voters entitled to vote for each seat on ballot. In each primary and general election, voters shall be entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections.

Sec. 10.080 Council to control elections. The conduct of all municipal elections shall be under the control of the Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud.

ARTICLE XI

INITIATIVE, REFERENDUM AND RECALL

Sec. 11.010 Registered voters' power of initiative and referendum concerning city ordinances. The registered voters of a city may:

- 1. Propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, adopt or reject it at a primary or general municipal election or primary or general state election; and*

- 2. Require reconsideration by the Council of any adopted ordinance, and if the Council fails to repeal an ordinance so considered, approve or reject it at a primary or general municipal election or primary or general state election.*

Sec. 11.020 Initiative and referendum proceedings. All initiative and referendum proceedings shall be conducted in conformance with the provisions of the Nevada Revised Statutes, as amended from time to time.

Sec. 11.030 Results of election.

- 1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the results of the election and must be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes prevails to the extent of the conflict.*

- 2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the results of the election.*

- 3. No initiative ordinance voted upon by the registered voters or an initiative ordinance in substantially the same form as one voted upon by the people, may again be placed on the ballot until the next primary or general municipal election or primary or general state election.*

Sec. 11.040 Repealing ordinances; publication. Initiative and referendum ordinances adopted or approved by the voters may be

published and shall not be amended or repealed by the Council, as in the case of other ordinances.

Sec. 11.050 Recall of Council members. As provided by the general laws of this State, every member of the Council is subject to recall from office.

ARTICLE XII PUBLIC UTILITIES

Sec. 12.010 Granting of franchises.

1. The City shall have the power to grant a franchise to any private corporation for the use of streets and other public places in the furnishing of any public utility service to the City and to its inhabitants.

2. All franchises and any renewals, extensions and amendments thereto shall be granted only by ordinance. A proposed franchise ordinance shall be submitted to the City Manager, and he or she shall render to the Council a written report containing recommendations thereon.

3. The City shall have the power, as one of the conditions of granting any franchise, to impose a franchise tax, either for the purpose of license or for revenue.

Sec. 12.020 Conditions and transfer of franchises.

1. Every franchise or renewal, extension or amendment of a franchise hereafter granted shall:

(a) ~~Impose upon the utility the duty to furnish proper service at minimum attainable cost under proper organization and efficient management;~~

~~(b) Include that the City may issue such orders with respect to safety and other matters as may be necessary or desirable for the community; and~~

~~(c) Reserve to the City the right to make all future regulations or ordinances deemed necessary for the preservation of the health, safety and public welfare of the City, including, without limitation, regulations concerning the imposition of uniform codes upon the utilities, standards and rules concerning the excavations and use to which the streets, alleys and public thoroughfares may be put and regulations concerning placement of easement improvements such as poles, valves, hydrants and the like.~~

2. No franchise shall be transferred hereafter by any utility to another without the approval of the Council, and as a condition to such approval, the successor in interest to the said franchise shall execute a written agreement containing a covenant that it will comply with all the terms and conditions of the franchise then in existence . ~~[, together with any other terms, conditions and regulations and ordinances which the City, or its agencies, may wish to impose.]~~

Sec. 12.030 ~~[Rates; annual cost of service and sliding scale basis. The Council shall enact proper ordinances and shall prosecute or cause to be prosecuted all appropriate proceedings before the Public Utilities Commission of Nevada to secure fair rates for consumers at large and for the City.~~

~~Sec. 12.040—Records and proceedings.~~

~~1. The Council shall establish or designate an agency of the city government which shall assemble the facts which are essential to the proper determination of cost of service and the fixing of reasonable rates. Such agency shall have and keep up to date an inventory of the property used in public service, the cost of such properties as actually and reasonably incurred or as fixed by appraisal additions and retirements made each year, the depreciation, and all matters that enter into the periodical readjustment of the rate base. It shall have power to make, and shall conduct, all inspections and examinations of public utility properties accounts and records necessary or appropriate to carry out the provisions of this Charter. At the close of each calendar or fiscal year, it shall make a comprehensive report and recommendations to the City Manager and the Council. Every public utility operating within the City shall furnish to such agency regular reports as to capital outlay, property retirements, operating revenues, operating expenses, taxes and other accounting matters according to the standard accounting classification issued for such utilities by the Public Utilities Commission of Nevada. In addition, the City may require reports regarding salaries, wages, employees, contracts, service performance and all other records of operation that pertain to proper rate adjustments on the basis of facts and regular administration.~~

~~2. The agency established or designated by the Council shall also make appropriate efforts to obtain proper annual revision of rates of private utilities which do not operate under the franchise terms of this Charter and which are not subject to municipal regulation by general law. It may initially obtain proper surveys of operating expenses, taxes and other charges and of the net capital investment in the properties used in public service within the City, and thereupon may endeavor, through negotiation with the utility, to obtain proper rate adjustments. If it cannot obtain due agreement, it shall file a complaint and petition with the Public Utilities Commission of Nevada for a formal rate inquiry. In such proceeding, it shall represent the consumers at large and shall prepare and present in legal form all the evidence with respect to cost of service and other elements as required in the public interest. It shall obtain all requisite data for successive rate revisions, and at the end of each calendar or fiscal year, it shall endeavor to secure any revision of rates indicated by the showing of facts, and, if necessary, shall proceed again with a request for formal inquiry by the Public Utilities Commission of Nevada.~~

~~Sec. 12.050]~~ **Condemnation.** *The City, by initiative ordinance, shall have the right to condemn the property of any public utility. ~~It is~~ subject to the provisions of chapter 37 of NRS. The public utility shall receive just compensation for the taking of its property. Such an initiative petition must be voted on by the people and cannot be passed by simple acceptance of the Council.*

Sec. ~~12.060~~ 12.040 Establishment of municipally owned and operated utilities.

1. The City shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed and to lease or purchase any existing utility properties used and useful in public service. ~~[The City may also furnish service in adjacent and nearby communities which may be conveniently and economically served by the municipally owned and operated utility, subject to:~~

~~(a) Agreements with such communities;~~

~~(b) Provisions of state law; and~~

~~(c) Provisions of this Charter.]~~

2. The Council may provide by ordinance for the establishment of such utility, but an ordinance providing for a newly owned and operated utility shall be enacted only after such hearings and procedure as required herein for the granting of a franchise, and shall also be submitted to and approved at a popular referendum provided that an ordinance providing for any extension, enlargement or improvement of an existing utility may be enacted as a matter of general municipal administration.

3. The City shall have the power to execute long-term contracts for the purpose of augmenting the services of existing municipally owned utilities. Such contracts shall be passed only in the form of ordinances and may exceed in length the terms of office of the members of the Council.

Sec. ~~12.070~~ 12.050 Municipal utility organizations.

1. The Council may provide for the establishment of a separate department to administer the utility function, including the regulation of privately owned and operated utilities and the operation of municipally owned utilities. Such department shall keep separate financial and accounting records for each municipally owned and operated utility and before February 1 of each fiscal year, shall prepare for the City Manager, in accordance with his or her specifications, a comprehensive report of each utility. The responsible departments or officer shall endeavor to make each utility financially self-sustaining, unless the Council shall by ordinance adopt a different policy. All net profits derived from municipally owned and operated utilities may be expended in the discretion of the Council for general municipal purposes.

2. The rates for the products and services of any municipally owned and operated utility shall only be established, reduced, altered or increased by resolution of the Council following a public hearing.

Sec. ~~12.080~~ 12.060 Financial provisions.

1. The City may finance the acquisition of privately owned utility properties, the purchase of land and the cost of all construction and property installation for utility purposes by borrowing in accordance with the provisions of general law.

2. Appropriate provisions shall be made for the amortization and retirement of all bonds within a maximum period of 40 years. Such

amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility.

Sec. ~~12.090~~ 12.070 Sale of public utilities; proviso.

1. No public utility of any kind, after having been acquired by the City, may thereafter be sold or leased by the City, unless the proposition for the sale or lease has been submitted to the electors of the City at a special election or primary or general municipal election or primary or general state election. After a majority vote of those electors in favor of the sale, the sale may not be made except after 30 days' published notice thereof, except that the provisions of this section do not apply to a sale by the Council of parts, equipment, trucks, engines and tools which have become obsolete or worn out, any of which equipment may be sold by the Council in the regular course of business.

2. A special election may be held only if the Council determines, by a unanimous vote, that an emergency exists. The determination made by the Council is conclusive unless it is shown that the Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the Council must be commenced within 15 days after the Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the Council to prevent or mitigate a substantial financial loss to the City or to enable the Council to provide an essential service to the residents of the City.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Sec. 13.010 Removal of officers and employees. Subject to the provisions of this Charter not inconsistent herewith, any employee of the City may be suspended or dismissed from employment at any time by the City Manager or by any applicable person appointed by the City Manager pursuant to this Charter. Unless otherwise provided in this Charter, any such action shall be considered final and conclusive and shall not be subject to appeal to any city governmental entity.

Sec. 13.020 Right of City Manager and other officers of Council. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, and the directors and other officers shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.

Sec. 13.030 Personal interest.

1. No elective or appointive officer shall take any official action on any contract or other matter in which he or she has any financial interest.

2. A violation of the provisions of this section shall constitute a misdemeanor, subject to a penalty not to exceed the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time of such violation.

Sec. 13.040 Official bonds. *Officers or employees, as the Council may by general ordinance require so to do, including a municipal court judge appointed pursuant to section 5.020 of Article V, if any, shall give bond in such amount and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the City.*

Sec. 13.050 Oath of office. *Every officer of the City shall, before entering upon the duties of his or her office, take and subscribe to the official oath of office of the State of Nevada:*

"I, ..., do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any Ordinance, Resolution or Law of any State notwithstanding, and I will well and faithfully perform all the duties of the Office of on which I am about to enter; (if any oath) so help me God; (if any affirmation) under the pains and penalties of perjury."

Sec. 13.060 Amending the Charter.

1. An amendment to this Charter:

(a) May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change. If a law is enacted which:

(1) Directly amends this Charter, such an amendment is not subject to public approval as provided in paragraph (b) and must be included in the Charter and identified as having been amended by the particular law involved.

(2) Requires that this Charter be amended but does not require the specific wording to be used, the Council shall propose a suitable amendment to be submitted to the registered voters of the City as provided by paragraph (b). If such a proposed amendment is not adopted by the voters, it must be redrafted and resubmitted to the voters at one or more general city elections or general state elections until an amendment is adopted.

(b) May be proposed by the Council and submitted to the registered voters of the City at a general city election or general state election.

(c) May be proposed by a petition signed by registered voters of the City equal in number to 15 percent or more of the voters who voted at the latest preceding general city election and submitted to registered voters of the City at the next general city election or general state election.

2. The City Attorney shall draft any amendment proposed pursuant to subparagraph (2) of paragraph (a) or paragraph (b) of subsection 1, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.

3. *The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to paragraph (c) of subsection 1, make only such corrections as are agreed to by the proposers and report to the Council his or her analysis of the significance and potential effects of the proposed amendment.*

4. *A petition for amendment must be in the form specified by state law for city initiative petitions and must be filed with the City Clerk not later than 6 months before the date of the general city election or general state election at which the proposed amendment is to be submitted to the voters of the City.*

5. *When an amendment is adopted by the registered voters of the City, the City Clerk shall, within 30 days thereafter, transmit a certified copy of the amendment to the Legislative Counsel.*

6. *Any amendment to the Charter proposed under the provisions of this section shall be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment shall become effective.*

Sec. 13.070 Short title; citation of City of Laughlin Act of 2011. This Charter shall be known and may be cited as the City of Laughlin Charter.

Sec. 13.080 Construction of Charter; separability of provisions.

1. *Whenever any reference is made to any portion of the Nevada Revised Statutes or of any other law of the State or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.*

2. *If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of the section to which such holding shall directly apply.*

Sec. 2. Section 9 of the Fort Mohave Valley Development Law, being chapter 427, Statutes of Nevada 2007, as amended by chapter 369, Statutes of Nevada 2009, at page 1860, is hereby amended to read as follows:

Sec. 9. Limitations on use of money.

~~{The}~~

1. *Except as otherwise provided in subsection 2, the Board of County Commissioners may use money in the Fort Mohave Valley Development Fund only to:*

~~{1-}~~ (a) Purchase or otherwise acquire lands described in sections 4 and 8 of this act; and

~~{2-}~~ (b) Administer the Fort Mohave Valley Development Law exclusively for the purposes of developing the Fort Mohave Valley and any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley, including,

without limitation, the planning, design and construction of capital improvements which develop the land in the Fort Mohave Valley or in any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley.

2. *The Board of County Commissioners shall use money in the Fort Mohave Valley Development Fund to pay:*

(a) *Any costs incurred by the Committee on Local Government Finance created by NRS 354.105, for the preparation of the report related to the fiscal feasibility of the incorporation of the City of Laughlin that is required by section 4 of this act;*

(b) *Any costs incurred by the County to hold the elections described in sections 5 and 11 this act; and*

(c) *Any other costs incurred by the County or City of Laughlin associated with the incorporation of the City of Laughlin,*

↳ *to the extent that gifts, grants or donations are not available to pay for the expenses.*

Sec. 3. As used in sections 3 to 16, inclusive, of this act:

1. "Board of County Commissioners" means the Board of County Commissioners of Clark County.

2. "City" means the City of Laughlin.

3. "City Council" means the City Council elected pursuant to section 11 of this act.

4. "County" means the County of Clark.

5. "Fort Mohave Valley Development Fund" means the fund created in the County Treasury pursuant to section 6 of the Fort Mohave Valley Development Law.

6. "Qualified elector" means a person who is registered to vote in this State and is a resident of the area to be included in the City, as shown by the last official registration lists before the election.

Sec. 4. 1. On or before December 31, 2011, the Committee on Local Government Finance, created by NRS 354.105, shall prepare and submit a report to the Board of County Commissioners with respect to the fiscal feasibility of the incorporation of the City. This report must ~~be~~ **:**

(a) Include, without limitation analyses of:

(1) The tax revenue and other revenues of the County that may be impacted by the incorporation of the City.

(2) The tax revenue and other revenues of the Township of Laughlin compared to the potential tax revenue and other revenues of the City after incorporation.

(3) The expenditures made by the Township of Laughlin compared to the anticipated expenditures of the City after incorporation.

(4) The expenditures made by the County for support of the Township of Laughlin that may or may not be impacted by the incorporation of the City.

(b) Be made available to the public for consideration before the election on the question of incorporation held pursuant to section 5 of this act.

2. The County Clerk shall cause the report to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. The final publication of the report must be published before the date of the ~~special~~ election ~~if~~ **held pursuant to section 5 of this act.**

Sec. 5. 1. An election on the question of incorporation of the City of Laughlin must be held after the Committee on Local Government Finance submits to the Board of County Commissioners the report required by section 4 of this act. The election will also be a primary election for the offices of Mayor and City Council.

2. The Board of County Commissioners may call a special election for the purposes of subsection 1, or may conduct an election pursuant to subsection 1 on the date of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act. The special election, if any, must be held within 90 days after the Board of County Commissioners receives the report prepared pursuant to section 4 of this act and conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

3. If the Board of County Commissioners calls a special election for the purposes of subsection 1, the County Clerk shall cause a notice of the election to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. The final publication of notice must be published before the date of the election.

4. If the Board of County Commissioners conducts an election pursuant to subsection 1 on the day of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act ~~if the~~ :

(a) The Board of County Commissioners shall submit the report required by section 4 of this act to the Legislative Commission. The Legislative Commission shall review the report and make a recommendation to the Board of County Commissioners as to whether the incorporation of the City is fiscally feasible.

(b) The County Clerk shall cause notice of the election to be published pursuant to NRS 293.203.

5. The notice of the election held pursuant to subsection 3 or 4 must contain:

- (a) The date of the election;
- (b) The hours during the day in which the polls will be open;
- (c) The location of the polling places;
- (d) A statement of the question in substantially the same form as it will appear on the ballots;
- (e) The names of the candidates; ~~and~~

(f) A list of the offices to which the candidates seek election. ~~H~~ ; and

(g) If the election is held pursuant to subsection 4, a summary of the recommendation made by the Legislative Commission pursuant to paragraph (a) of subsection 4.

Sec. 6. The incorporation question on the ballots used for the election held pursuant to section 5 of this act must be in substantially the following form:

Shall the area described as.....(describe area) be incorporated as the City of Laughlin?

Yes ☐

No ☐

The voter shall mark the ballot by placing a cross (x) next to the word "yes" or "no."

Sec. 7. 1. A person who wishes to become a candidate for any office to be voted for at the election held pursuant to section 5 of this act must:

- (a) Reside within the boundaries of the City;
- (b) File an affidavit of candidacy, which must include a declaration of residency, with the County Clerk not later than the date for the filing of such affidavits as set by the County Clerk; and
- (c) File a nomination petition containing at least 100 signatures of qualified electors.

2. Qualified electors may sign more than one nominating petition for candidates for the same office.

3. A candidate may withdraw his or her candidacy pursuant to the provisions of NRS 293.202.

4. If there are less than three candidates for any office to be filled at the primary election held pursuant to section 5 of this act, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election held pursuant to section 11 of this act.

5. The names of the two candidates for mayor and for each seat on the City Council who receive the highest number of votes in the primary election held pursuant to section 5 of this act must be placed on the ballot for the general election held pursuant to section 11 of this act.

Sec. 8. 1. At least 10 days before the election held pursuant to section 5 of this act, the County Clerk shall cause to be mailed to each qualified elector a sample ballot for his or her precinct with a notice informing the elector of the location of his or her polling place.

2. The sample ballot must:

- (a) Include the question in the form required by section 6 of this act;
- (b) Describe the area proposed to be incorporated by assessor's parcel maps, existing boundaries of subdivision or parcel maps, identifying visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the state, a county, a city, a township, a section or any combination of these; and
- (c) Include the names of candidates for the various offices as determined pursuant to section 7 of this act.

Sec. 9. 1. The Board of County Commissioners shall canvass the votes cast in the election held pursuant to section 5 of this act in the same manner as votes are canvassed in a general election. Upon completion of the canvass, the Board shall immediately notify the County Clerk of the results.

2. The County Clerk shall, upon receiving notice of the canvass from the Board of County Commissioners, immediately cause to be published a notice of the results of the election in a newspaper of general circulation in the County. If the incorporation is approved by the voters, the notice must include the category of the City according to population, as described in NRS 266.055. The County Clerk shall file a copy of the notice with the Secretary of State.

Sec. 10. 1. The Board of County Commissioners may accept gifts, grants and donations to pay for any expenses that are related to the incorporation of the City, including, without limitation:

(a) The costs incurred by the Committee on Local Government Finance for preparing the fiscal feasibility report required by section 4 of this act;

(b) The costs incurred by the County to hold the elections described in sections 5 and 11 of this act; and

(c) Any other costs incurred by the County or City associated with the incorporation of the City of Laughlin.

2. To the extent that gifts, grants and donations do not pay the costs of the expenses described in subsection 1, the Board of County Commissioners shall order the County Treasurer to pay such expenses from the Fort Mohave Valley Development Fund.

3. The County Clerk shall submit to the Board of County Commissioners a statement of all expenses related to conducting the elections held pursuant to sections 5 and 11 of this act.

Sec. 11. 1. If the incorporation of the City is approved by the voters at an election held pursuant to section 5 of this act, a general election must be held to elect four members of the City Council and the Mayor. The Board of County Commissioners may conduct a special election for the purposes of this subsection, or may conduct the election required by this subsection on the date of the first general election held in the County after the date of the election held pursuant to section 5 of this act. The election must be conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

2. The names of the two candidates for Mayor and for each particular seat on the City Council who receive the highest number of votes in the primary election must be placed on the ballot for the general election. A candidate for Mayor or a seat on the City Council may not withdraw from the general election.

Sec. 12. 1. The term of the Mayor elected pursuant to section 11 of this act expires upon the election and qualification of the person elected Mayor in the first general election held pursuant to section 10.020 of the City of Laughlin Charter.

2. The terms of two of the members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the first general election held pursuant to section 10.020 of the City of Laughlin Charter. The terms of the remaining members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the second general election held pursuant to section 10.020 of the City of Laughlin Charter.

3. The members of the City Council elected pursuant to section 11 of this act shall, at the first meeting of the City Council after their election and qualification, draw lots to determine the length of their respective terms.

Sec. 13. Before the incorporation of the City becomes effective, ~~it~~ **but after the general election held pursuant to section 11 of this act,** the City Council may:

1. Prepare and adopt a budget;
2. ~~Adopt~~ **Prepare and adopt** ordinances;
3. ~~Levy~~ **Prepare to levy** an ad valorem tax on property within the area of the City, at the time and in the amount prescribed by law for cities, for the fiscal year beginning on the date the incorporation of the City becomes effective;

4. Negotiate **and prepare** an equitable apportionment of the fixed assets of the County pursuant to section 15 of this act;

5. Negotiate **and prepare** contracts for the employment of personnel;

6. Negotiate **and prepare** contracts to provide services for the City, including, without limitation, those services provided for by chapter 277 of NRS; ~~and~~

7. Negotiate **and prepare** contracts for the purchase of equipment, materials and supplies ~~it~~;

8. **Negotiate and prepare contracts or memorandums of understanding with the County for the City to provide services to unincorporated areas of the County that are contiguous to the City;**

9. **Negotiate and prepare a cooperative agreement pursuant to NRS 360.730; and**

10. **Communicate with and provide information to the Department of Taxation to effectuate the allocation of tax revenues on the date the incorporation of the City becomes effective.**

Sec. 14. 1. During the period from the filing of the notice of results of the election conducted pursuant to section 5 of this act by the County Clerk until the date the incorporation of the City becomes effective, the County is entitled to receive the taxes and other revenue from the City and shall continue to provide services to the City.

2. Except as otherwise provided in NRS 318.492, all special districts, except fire protection districts, located within the boundaries of the City continue to exist within the City after the incorporation becomes effective.

Sec. 15. 1. The City Council and the Board of County Commissioners shall, before the date that the incorporation becomes effective or within 90 days after that date, equitably apportion those fixed assets of the County which are located within the boundaries of the City. The City Council and the Board of County Commissioners shall consider the location, use and types of assets in determining an equitable apportionment between the County and the City.

2. Any real property and its appurtenances located within the City and not required for the efficient operation of the County's duties must first be applied toward the City's share of the assets of the County. Any real property which is required by the County for the efficient operation of its duties must not be transferred to the City.

3. If an agreement to apportion the assets of the County is not reached within 90 days after the incorporation of the City, the matter may be submitted to arbitration upon the motion of either party.

4. Any appeal of the arbitration award must be filed with the district court within 30 days after the award is granted.

Sec. 16. Any property located within the City which was assessed and taxed by the County before incorporation must continue to be assessed and taxed to pay for the indebtedness incurred by the County before incorporation.

Sec. 17. 1. This section and sections 2 to 16, inclusive, of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective, if the incorporation of the City of Laughlin is approved by the voters at the election held pursuant to section 5 of this act on July 1, 2013.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy

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

Amendment No. 190 to Senate Bill No. 262 provides that the report required in Section 4 of the bill include determinations regarding the allocation of Laughlin Township revenues including, but not limited to, the consolidated tax and other revenues currently received by the County and the Township.

It sets forth the circumstances under which the report must be submitted to and reviewed by the Legislative Commission.

The amendment adds language clarifying the timing of actions that can be taken by the City Council before the incorporation becomes effective. Such actions would include the preparation of a budget, ordinances, agreements, and certain contracts.

It deletes provisions in the proposed Charter to ensure that existing franchise agreements with utilities will remain unchanged as a result of the incorporation of Laughlin, and provides in the proposed Charter that future annexations of property must not occur unless a majority of owners of the real property to be annexed petition the City Council for annexation into the city.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 268.

Bill read second time.

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

Amendment No. 188.

"SUMMARY—Revises provisions relating to competing for public works by design professionals. (BDR 28-740)"

"AN ACT relating to public works; revising provisions relating to preferences when competing for contracts for certain public works projects; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a contract for a public work involving a design-build team is awarded by a public body based on the application of certain criteria. A design-build team may qualify for a preference in bidding on such a contract if the contractor on the design-build team has submitted proof to the State Contractors' Board that the contractor has paid certain taxes to the State for the past 5 years. (NRS 338.1389, 338.147, 338.1727, 408.3886)

Section 1 of this bill allows a person who holds a certificate of registration to engage in the practice of architecture or landscape architecture or who holds a license as a professional engineer or professional land surveyor to qualify for a preference when competing for public works if the person has submitted proof to the appropriate licensing board that the person has paid certain taxes to the State for the past 5 years. **Sections 4 and 7** of this bill allow a design-build team to receive a preference in selection as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Sections 5 and 8** of this bill allow a design-build team that has been selected as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway to receive a preference in selection for a contract only if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Section 9** of this bill allows an architect, professional engineer or professional land surveyor to receive a preference in selection for certain public works if the architect, professional engineer or professional land surveyor possesses a certificate of eligibility to receive a preference when competing for public works.

Existing law provides that a public body which selects a design-build team as a finalist in the selection process for a contract for a public work must make public specified information concerning the design-build team and its selection. (NRS 338.1725) **Section 7** of this bill adds a similar requirement for the Department of Transportation to make public specified information concerning a design-build team and the selection of that design-build team as a finalist in the selection process for a contract for a project for the construction, reconstruction or improvement of a highway. **Section 3** of this bill requires that a public body must, after selecting but before entering into a contract with a design professional who is not a member of a design-build

team, transmit certain information concerning the selection of the design profession to the licensing board that regulates the design professional. That licensing board must post the information on its Internet website.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The State Board of Architecture, Interior Design and Residential Design shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of architecture pursuant to the provisions of chapter 623 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of architecture in this State:*

(a) *Paid directly, on his or her own behalf* ~~the~~

~~(1) *The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for design or construction in this State, including, without limitation, design or construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony;*~~ ***the excise tax imposed upon an employer by NRS 363B.110 of not less than*** ~~[\$5,000]~~ ***\$1,500 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;***

~~the~~ ***(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or***

~~(3) *Any combination of such sales and use taxes and governmental services tax;*~~ ***or***

(b) *Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of architecture that:*

(1) *Satisfies the requirements of NRS 623.350; and*

(2) *Possesses a certificate of eligibility to receive a preference when competing for public works.*

2. *The State Board of Landscape Architecture shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to the provisions of chapter 623A of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of*

registration to engage in the practice of landscape architecture in this State:

(a) Paid directly, on his or her own behalf ~~£~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for design or construction in this State, including, without limitation, design or construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony; the excise tax imposed upon an employer by NRS 363B.110 of not less than ~~£\$5,000~~ \$1,500 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; £~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; £ or~~

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of landscape architecture that:

(1) Satisfies the requirements of NRS 623A.250; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

3. The State Board of Professional Engineers and Land Surveyors shall issue a certificate of eligibility to receive a preference when competing for public works to a professional engineer or professional land surveyor who is licensed pursuant to the provisions of chapter 625 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the professional engineer or professional land surveyor has, while licensed as a professional engineer or professional land surveyor in this State:

(a) Paid directly, on his or her own behalf ~~£~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for design or construction in this State, including, without limitation, design or construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony; the excise tax imposed upon an employer by NRS 363B.110 of not less than ~~£\$5,000~~ \$1,500 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; £~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State~~

~~of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in engineering or land surveying that:

(1) Satisfies the requirements of NRS 625.407; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

4. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 1, paragraph (a) of subsection 2 and paragraph (a) of subsection 3, a person shall be deemed to have paid:

(a) ~~[Sales and use taxes and governmental services taxes paid in this State]~~ The excise tax imposed upon an employer by NRS 363B.110 by an affiliate or parent company of the person, if the affiliate or parent company also satisfies the requirements of NRS 623.350, 623A.250 or 625.407, as applicable; and

(b) ~~[Sales and use taxes paid in this State]~~ The excise tax imposed upon an employer by NRS 363B.110 by a joint venture in which the person is a participant, in proportion to the amount of interest the person has in the joint venture.

5. A design professional who has received a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 must, at the time for the renewal of his or her professional license or certificate of registration, as applicable, pursuant to chapter 623, 623A or 625 of NRS, submit to the applicable licensing board an affidavit from a certified public accountant setting forth that the design professional has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 1, paragraph (a) of subsection 2 or paragraph (a) of subsection 3, as applicable, to maintain eligibility to hold such a certificate.

6. A design professional who fails to submit an affidavit to the applicable licensing board pursuant to subsection 5 ceases to be eligible to receive a preference when competing for public works unless the design professional reapplies for and receives a certificate of eligibility pursuant to subsection 1, 2 or 3, as applicable.

7. If a design professional holds more than one license or certificate of registration, the design professional must submit a separate application for each license or certificate of registration pursuant to which the design professional wishes to qualify for a preference when competing for public works. Upon issuance, the certificate of eligibility to receive a preference when competing for public works becomes part of the design professional's

license or certificate of registration for which the design professional submitted the application.

8. If a design professional who applies to a licensing board for a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 submits false information to the licensing board regarding the required payment of taxes, the design professional is not eligible to receive a preference when competing for public works for a period of 5 years after the date on which the licensing board becomes aware of the submission of the false information.

9. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall adopt regulations and may assess reasonable fees relating to their respective certification of design professionals for a preference when competing for public works.

10. A person or entity who believes that a design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works may challenge the validity of the certificate by filing a written objection with the public body which selected, for the purpose of providing services for a public work, the design professional who holds the certificate. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works; and

(b) Be filed with the public body not later than 3 business days after:

(1) The date on which the public body makes available to the public pursuant to subsection 3 of NRS 338.1725 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 338.1725;

(2) The date on which the Department of Transportation makes available to the public pursuant to subsection 3 of NRS 408.3885 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 408.3885; or

(3) The date on which the licensing board which issued the certificate to the design professional posted on its Internet website the information required by subsection 3 of NRS 338.155, if the design professional is identified in that information as being selected for a contract governed by NRS 338.155.

11. If a public body receives a written objection pursuant to subsection 10, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating

evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the design professional qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 2. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.1699, inclusive; or
- (d) NRS 338.1711 to 338.1727, inclusive ~~and~~, **and section 1 of this act.**

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 3. NRS 338.155 is hereby amended to read as follows:

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by

the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.

3. ***A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional, whether the design professional possesses a certificate of eligibility to receive a preference when competing for public works and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.***

4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

Sec. 4. NRS 338.1725 is hereby amended to read as follows:

338.1725 1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721; ~~and~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work ~~}; and~~

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and ~~the rankings of the design-build teams who submitted preliminary proposals.~~ **identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.**

Sec. 5. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of *both* a certificate of eligibility to receive a preference in bidding on public works *by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team*, and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to *a* preference in bidding on public works ~~†~~ *or a preference when competing for public works*, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body, at a regularly scheduled meeting, shall:

(a) Select the final proposal, using the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected; or

(b) Reject all the final proposals.

7. If a public body selects a final proposal and awards a design-build contract pursuant to paragraph (a) of subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 6. NRS 408.3883 is hereby amended to read as follows:

408.3883 1. The Department shall advertise for preliminary proposals for the design and construction of a project by a design-build team in a newspaper of general circulation in this State.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the proposed project;

(b) Separate estimates of the costs of designing and constructing the project;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the project will begin and end;

(d) The date by which preliminary proposals must be submitted to the Department, which must not be less than 30 days after the date that the request for preliminary proposals is first published in a newspaper pursuant to subsection 1; and

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3.

3. The Department shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the project:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the Department determines to be necessary;

(b) A list of the requirements set forth in NRS 408.3884;

(c) A list of the factors that the Department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 408.3886; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the Department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 408.3885 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 *and whose members who hold a certificate of registration to practice architecture or a license as a professional engineer and who hold a certificate of eligibility to receive a preference when competing for public works issued pursuant to section 1 of this act* should submit a copy of ~~the~~ *each* certificate of eligibility with its proposal; and

(f) A statement as to whether a ~~bidding~~ design-build team that is selected as a finalist pursuant to NRS 408.3885 but is not awarded the design-build contract pursuant to NRS 408.3886 will be partially reimbursed for the cost of preparing a final proposal or best and final offer, or both, and, if so, an estimate of the amount of the partial reimbursement.

Sec. 7. NRS 408.3885 is hereby amended to read as follows:

408.3885 1. The Department shall select at least three but not more than five finalists from among the design-build teams that submitted preliminary proposals. If the Department does not receive at least three

preliminary proposals from design-build teams that the Department determines to be qualified pursuant to this section and NRS 408.3884, the Department may not contract with a design-build team for the design and construction of the project.

2. The Department shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 408.3884; ~~and~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team;

(4) The proposed plan of the design-build team to manage the design and construction of the project that sets forth in detail the ability of the design-build team to design and construct the project; and

(5) The degree to which the preliminary proposal is responsive to the requirements of the Department for the submittal of a preliminary proposal ~~it~~; and

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the Department shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and ~~the rankings of the design-build teams who submitted preliminary proposals.~~ identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.

Sec. 8. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of ***both*** a certificate of eligibility to receive a preference in bidding on public works ***by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team***, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to *a* preference in bidding on public works ~~or~~ ***or a preference when competing for public works***, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of

subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 9. NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, *and section 1 of this act* and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed \$35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of this chapter or chapter 623 of NRS.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees. If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him or her, the public agency may terminate negotiations and select another engineer, land surveyor or architect. ***Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a professional engineer, professional land surveyor or registered architect pursuant to this subsection, the public agency shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference when competing for public works. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.***

Sec. 10. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 11. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
2. On October 1, 2011, for all other purposes.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 188 to Senate Bill No. 268 partially changes the eligibility criteria for the preference to specify that the design professional must have paid an excise tax, which is based on the sum of all wages, of not less than \$1,500 annually for five consecutive years, and deletes language that would have required the rankings of the design-build teams who submitted preliminary proposals be made public and instead requires that the identity of the finalists who received a preference in bidding or competing for the public work be made public.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 277.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 229.

"SUMMARY—Revises provisions governing certain acts by juveniles relating to the possession, transmission and distribution of certain sexual images. (BDR 15-10)"

"AN ACT relating to juveniles; prohibiting, under certain circumstances, a minor from using an electronic communication device to possess, transmit or distribute certain sexual images of a minor; clarifying the definition of "cyber-bullying" for the purposes of certain provisions relating to education; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person, under certain circumstances, from distributing to a minor material that is harmful to minors. Such material includes certain nude pictures of a person. If an adult violates these provisions, the adult is generally guilty of a misdemeanor. (NRS 201.265) If a minor violates these provisions, the minor may be adjudicated delinquent. (NRS 62B.330) Existing law also prohibits a person from committing certain acts regarding pornography involving minors. (NRS 200.700-200.760) If an adult violates these provisions, the adult is guilty of a felony and is subject to registration and community notification as a sex offender. (NRS 179D.010-179D.550) If a minor violates these provisions, the minor may be adjudicated delinquent and subject to registration and community notification as a juvenile sex offender. (Chapter 62F of NRS) This bill provides an alternative prohibition with alternative penalties for violating that alternative prohibition which can be applied to certain minors instead of the penalties in existing law. Thus, this bill preserves prosecutorial discretion in addressing this issue.

Section 1 of this bill prohibits, under certain circumstances, a minor from using an electronic communication device, such as a cell phone, to possess, transmit or distribute a sexual image of himself or herself or of another minor. A minor who uses an electronic communication device to transmit or distribute a sexual image of himself or herself is considered a child in need of supervision for the purposes of the laws governing juvenile justice. **for the first violation, and is considered to have committed a delinquent act for a second or subsequent violation.** A minor who uses an electronic communication device to possess **a sexual image of another minor is considered a child in need of supervision, while a minor who uses an electronic communication device to** transmit or distribute a sexual image of another minor is considered to have committed a delinquent act. **Section 1** also provides that a minor who violates the provisions of **section 1** is not considered a sex offender and is not subject to registration or community notification as a juvenile sex offender or as a sex offender.

Existing law requires the Department of Education to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.121-388.139) **Section 4** of this bill revises the definition of "cyber-bullying" to clarify that the term includes the use of electronic communication to transmit or distribute a sexual image of a minor.

This revised definition of "cyber-bullying" also applies to certain other provisions related to education. Specifically, the term applies to existing law which requires the Council to Establish Academic Standards for Public Schools to establish the standards of content and performance for courses of study in computer education and technology. (NRS 389.520) Those standards must include a policy for the ethical, safe and secure use of computers and other electronic devices which includes methods to ensure the prevention of cyber-bullying. Further, the revised definition applies to existing law which prohibits a person from using any means of oral, written or electronic communication, including the use of cyber-bullying, to knowingly threaten to cause bodily harm or death to a pupil or school employee with the intent to: (1) intimidate, frighten, alarm or distress the pupil or school employee; (2) cause panic or civil unrest; or (3) interfere with the operation of a public school. (NRS 392.915)

WHEREAS, The Legislature has taken a strong stance with regard to protecting children from the harmful effects of child pornography and in doing so has enacted several statutes which impose severe penalties for persons who violate Nevada's child pornography laws; and

WHEREAS, Existing law provides that if an adult violates those child pornography laws, the adult is guilty of a felony and subject to registration and community notification as a sex offender; and

WHEREAS, Existing law also provides that if a child violates those child pornography laws, the child may be adjudicated delinquent and subject to registration and community notification as a juvenile sex offender; and

WHEREAS, The rapid advancement of new technology, such as cell phones with cameras, has created the unintended consequence of making it easy for children to violate these child pornography laws; and

WHEREAS, A significant number of children regularly use cellular phones and computers to communicate with their peers, and the act of sending such communications can be completed in a matter of seconds; and

WHEREAS, Some elements of popular culture aimed at children and young adults glamorize and urge others to engage in the act commonly referred to as "sexting," the act of sending or posting sexual images of oneself or another via a computer, cellular phone or other electronic device; and

WHEREAS, An increasing number of children use such technology to engage in the act of sexting; and

WHEREAS, Children often act without fully contemplating the potential grave consequences of their actions, including, without limitation, the serious penalties imposed for violating child pornography laws, the requirement to register as a sex offender for violating such laws, the negative effect on relationships, the loss of educational and employment opportunities, the use of such materials in bullying and cyber-bullying, and the distribution of such materials on the Internet to a worldwide audience; and

WHEREAS, It is important to educate children about the serious consequences of engaging in sexting and to provide an effective and measured response to children who engage in such behavior without imposing penalties on these children which will severely, negatively and, in many cases, permanently alter these children's lives; now, therefore,

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

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

1. A minor shall not knowingly and willfully use an electronic communication device to transmit or distribute a sexual image of himself or herself to another person.

2. A minor shall not knowingly and willfully use an electronic communication device to transmit or distribute a sexual image of another minor who is older than, the same age as or not more than 4 years younger than the minor transmitting the sexual image.

3. A minor shall not knowingly and willfully possess a sexual image that was transmitted or distributed as described in subsection 1 or 2 if the minor who is the subject of the sexual image is older than, the same age as or not more than 4 years younger than the minor who possesses the sexual image. It is an affirmative defense to a violation charged pursuant to this subsection if the minor who possesses a sexual image:

(a) Did not knowingly purchase, procure, solicit or request the sexual image or take any other action to cause the sexual image to come into his or her possession; and

(b) Promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency ~~or~~ or a school official, to access any sexual image:

(1) Took reasonable steps to destroy each image; or

(2) Reported the matter to a law enforcement agency or a school official and gave ~~that~~ the law enforcement agency or school official access to each image.

4. A minor who violates subsection 1:

(a) For the first violation:

(1) Is a child in need of supervision, as that term is used in title 5 of NRS, and is not a delinquent child; and

(2) Is not considered a sex offender or juvenile sex offender and is not subject to registration or community notification as a juvenile sex offender pursuant to title 5 of NRS, or as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

(b) For the second or a subsequent violation:

(1) Commits a delinquent act, and the court may order the detention of the minor in the same manner as if the minor had committed an act that would have been a misdemeanor if committed by an adult; and

(2) Is not considered a sex offender or juvenile sex offender and is not subject to registration or community notification as a juvenile sex offender pursuant to title 5 of NRS, or as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

5. A minor who violates subsection 2: ~~for 3:~~

(a) Commits a delinquent act, and the court may order the detention of the minor in the same manner as if the minor had committed an act that would have been a misdemeanor if committed by an adult; and

(b) Is not considered a sex offender or juvenile sex offender and is not subject to registration or community notification as a juvenile sex offender pursuant to title 5 of NRS, or as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

6. A minor who violates subsection 3:

(a) Is a child in need of supervision, as that term is used in title 5 of NRS, and is not a delinquent child; and

(b) Is not considered a sex offender or juvenile sex offender and is not subject to registration or community notification as a juvenile sex offender pursuant to title 5 of NRS, or as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

7. As used in this section:

(a) "Electronic communication device" means any electronic device that is capable of transmitting or distributing a sexual image, including,

without limitation, a cellular phone, personal digital assistant, computer, computer network and computer system.

(b) "Minor" means a person who is under 18 years of age.

(c) "School official" means a principal, vice principal, school counselor or school police officer.

(d) "Sexual conduct" has the meaning ascribed to it in NRS 200.700.

~~##~~ *(e) "Sexual image" means any visual depiction, including, without limitation, any photograph or video, of a minor simulating or engaging in sexual conduct or of a minor as the subject of a sexual portrayal.*

~~##~~ *(f) "Sexual portrayal" has the meaning ascribed to it in NRS 200.700.*

Sec. 2. NRS 200.740 is hereby amended to read as follows:

200.740 For the purposes of NRS 200.710 to 200.735, inclusive, ***and section 1 of this act***, to determine whether a person was a minor, the court or jury may:

1. Inspect the person in question;
2. View the performance;
3. Consider the opinion of a witness to the performance regarding the person's age;
4. Consider the opinion of a medical expert who viewed the performance; or
5. Use any other method authorized by the rules of evidence at common law.

Sec. 3. NRS 62B.320 is hereby amended to read as follows:

62B.320 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is alleged or adjudicated to be in need of supervision because the child:

(a) Is subject to compulsory school attendance and is a habitual truant from school;

(b) Habitually disobeys the reasonable and lawful demands of the parent or guardian of the child and is unmanageable; ~~##~~

(c) Deserts, abandons or runs away from the home or usual place of abode of the child and is in need of care or rehabilitation ~~##~~ ; or

(d) Uses an electronic communication device to transmit or distribute a sexual image of himself or herself to another person or to possess a sexual image in violation of section 1 of this act.

2. A child who is subject to the jurisdiction of the juvenile court pursuant to this section must not be considered a delinquent child.

3. As used in this section:

(a) "Electronic communication device" has the meaning ascribed to it in section 1 of this act.

(b) "Sexual image" has the meaning ascribed to it in section 1 of this act.

Sec. 4. NRS 388.123 is hereby amended to read as follows:

388.123 "Cyber-bullying" means bullying through the use of electronic communication. *The term includes the use of electronic communication to transmit or distribute a sexual image of a minor. As used in this section, "sexual image" has the meaning ascribed to it in section 1 of this act.*

Sec. 5. This act becomes effective on July 1, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment provides that a minor who transmits an image of himself or herself is a minor in need of supervision for the first offense and is considered a delinquent for a second or subsequent offense. Additionally, a minor who possesses a sexual image of another minor is considered a child in need of supervision, but if that image is transmitted or distributed, the minor commits a delinquent act.

The amendment also adds "school official" as an authority to whom a minor may report such an image.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 309.

Bill read second time and ordered to third reading.

Senate Bill No. 361.

Bill read second time.

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

Amendment No. 187.

"SUMMARY—Authorizes the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in certain areas. (BDR 48-285)"

"AN ACT relating to water; authorizing the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in certain areas; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes a person to apply to the State Engineer for the issuance of a temporary permit to appropriate water to establish vegetative cover that is resistant to fire in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire in an area. Unless extended by the State Engineer, the duration of such a temporary permit is limited to ~~one growing season of the vegetative cover.~~ **1 year.** **Section 2** of this bill declares the use of water to prevent or reduce the impact of wildfires or to rehabilitate areas burned by wildfires as a policy of the State.

Sections 3-7 of this bill exempt an application for such a temporary permit from several requirements in existing law for applications for permits concerning water rights, including publication of notice of the application in a newspaper and authorization for the filing of protests against the granting of the application. This expedited process is similar to the process for the

issuance of environmental permits by the State Engineer. (NRS 533.437-533.4377)

Section 8 of this bill requires the State Forester Firewarden, upon the request of the State Engineer, to review the plan for establishing the vegetative cover that is required to be submitted by the applicant for the temporary permit.

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person may apply for a temporary permit to appropriate water to establish vegetative cover that is resistant to fire in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire in an area.

2. In addition to the information required by NRS 533.335, an applicant for a temporary permit shall submit to the State Engineer:

(a) A plan for establishing vegetative cover that is resistant to fire in the area;

(b) Any other information which is necessary for a full understanding of the necessity of the appropriation; and

(c) For:

(1) Examining and filing the application for the temporary permit, \$150.

(2) Issuing and recording the temporary permit, \$200.

3. The State Engineer may forward a plan submitted pursuant to subsection 2 to the State Forester Firewarden for his or her review and comments.

4. The State Engineer shall approve an application for a temporary permit if:

(a) The application is accompanied by the prescribed fees;

(b) The appropriation is in the public interest; and

(c) The appropriation does not impair water rights held by other persons.

5. A temporary permit issued pursuant to this section must not exceed 1 year in duration, ~~for one growing season for the vegetative cover~~ but may be extended by the State Engineer in increments not to exceed ~~for a growing season~~ 1 year in duration.

Sec. 2. NRS 533.024 is hereby amended to read as follows:

533.024 The Legislature declares that:

1. It is the policy of this State:

(a) To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectable interest in such wells and to protect

their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated.

(c) To encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada.

(d) To encourage and promote the use of water to prevent or reduce the spread of wildfire or to rehabilitate areas burned by wildfire, including, without limitation, through the establishment of vegetative cover that is resistant to fire.

2. The procedures in this chapter for changing the place of diversion, manner of use or place of use of water, and for confirming a report of conveyance, are not intended to have the effect of quieting title to or changing ownership of a water right and that only a court of competent jurisdiction has the power to determine conflicting claims to ownership of a water right.

Sec. 3. NRS 533.360 is hereby amended to read as follows:

533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and subsection 5 of NRS 533.370, when an application is filed in compliance with this chapter, the State Engineer shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general circulation and printed and published in the county where the water is sought to be appropriated, a notice of the application which sets forth:

- (a) That the application has been filed.
 - (b) The date of the filing.
 - (c) The name and address of the applicant.
 - (d) The name of the source from which the appropriation is to be made.
 - (e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.
 - (f) The purpose for which the water is to be appropriated.
- ↪ The publisher shall add thereto the date of the first publication and the date of the last publication.

2. Except as otherwise provided in subsection 4, proof of publication must be filed within 30 days after the final day of publication. The State Engineer shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the State Engineer shall return to the applicant that portion of the application fee collected for publication.

3. If the application is for a proposed well:

- (a) For municipal, quasi-municipal or industrial use; and
 - (b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,
- ↪ the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is within 2,500 feet of the proposed well, to the owner's address as shown in the latest records of the

county assessor. If there are not more than six such wells, notices must be sent to each owner by certified mail, return receipt requested. If there are more than six such wells, at least six notices must be sent to owners by certified mail, return receipt requested. The return receipts from these notices must be filed with the State Engineer before the State Engineer may consider the application.

4. The provisions of this section do not apply to an environmental permit ~~or~~ ***or a temporary permit issued pursuant to section 1 of this act.***

Sec. 4. NRS 533.363 is hereby amended to read as follows:

533.363 1. Except as otherwise provided in subsection 2, if water for which a permit is requested is to be used in a county other than that county in which it is to be appropriated, or is to be diverted from or used in a different county than that in which it is currently being diverted or used, then the State Engineer shall give notice of the receipt of the request for the permit to:

(a) The board of county commissioners of the county in which the water for which the permit is requested will be appropriated or is currently being diverted or used; and

(b) The board of county commissioners of the county in which the water will be diverted or used.

2. The provisions of subsection 1 do not apply:

(a) To an environmental permit ~~or~~ ***or a temporary permit issued pursuant to section 1 of this act.***

(b) If:

(1) The water is to be appropriated and used; or

(2) Both the current and requested place of diversion or use of the water are,

↳ within a single, contiguous parcel of real property.

3. A person who requests a permit to which the provisions of subsection 1 apply shall submit to each appropriate board of county commissioners a copy of the application and any information relevant to the request.

4. Each board of county commissioners which is notified of a request for a permit pursuant to this section shall consider the request at the next regular or special meeting of the board held not earlier than 3 weeks after the notice is received. The board shall provide public notice of the meeting for 3 consecutive weeks in a newspaper of general circulation in its county. The notice must state the time, place and purpose of the meeting. At the conclusion of the meeting the board may recommend a course of action to the State Engineer, but the recommendation is not binding on the State Engineer.

Sec. 5. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

- (a) The application is accompanied by the prescribed fees;
- (b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and
- (c) The applicant provides proof satisfactory to the State Engineer of the applicant's:

- (1) Intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

- (2) Financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and 11 and NRS 533.365, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

- (a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

- (b) Postpone action if the purpose for which the application was made is municipal use.

- (c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection 11, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

- (a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

- (b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection 11, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectable interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove

detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 12, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. If:

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

↳ the State Engineer shall notice a new period of 45 days in which a person who is a successor in interest to a protestant or an affected water right owner may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in subsection 10, a person who is a successor in interest to a protestant or an affected water right owner who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if the successor in interest were the former owner whose interest he or she succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer on a form provided by the State Engineer.

11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit ~~or~~ *or a temporary permit issued pursuant to section 1 of this act.*

12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

13. As used in this section:

(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.

(b) "Domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 6. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in an endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set

under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS,
➡ must not be less than 5 years.

2. The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, grant any number of extensions of time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by the State Engineer, but a single extension of time for a municipal or quasi-municipal use for a public water system, as defined in NRS 445A.235, must not exceed 5 years, and any other single extension of time must not exceed 1 year. An application for the extension must in all cases be:

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

➡ The State Engineer shall not grant an extension of time unless the State Engineer determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4. Except as otherwise provided in subsection 5 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, or for any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to apply the water to a beneficial use, the State Engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS,

↳ if any, for completing the development of the land.

5. The provisions of subsections 1 and 4 do not apply to an environmental permit ~~[-]~~ ***or a temporary permit issued pursuant to section 1 of this act.***

6. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is composed of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

Sec. 7. NRS 533.400 is hereby amended to read as follows:

533.400 1. Except as otherwise provided in subsection 2, on or before the date set in the endorsement of a permit for the application of water to beneficial use, or on the date set by the State Engineer under a proper application for extension therefor, any person holding a permit from the State Engineer to appropriate the public waters of the State of Nevada, to change the place of diversion or the manner or place of use, shall file with the State Engineer a statement under oath, on a form prescribed by the State Engineer. The statement must include:

(a) The name and post office address of the person making the proof.

(b) The number and date of the permit for which proof is made.

(c) The source of the water supply.

(d) The name of the canal or other works by which the water is conducted to the place of use.

(e) The name of the original person to whom the permit was issued.

(f) The purpose for which the water is used.

(g) If for irrigation, the actual number of acres of land upon which the water granted in the permit has been beneficially used, giving the same by 40-acre legal subdivisions when possible.

(h) An actual measurement taken by a licensed state water right surveyor or an official or employee of the Office of the State Engineer of the water diverted for beneficial use.

(i) The capacity of the works of diversion.

(j) If for power, the dimensions and capacity of the flume, pipe, ditch or other conduit.

(k) The average grade and difference in elevation between the termini of any conduit.

(l) The number of months, naming them, in which water has been beneficially used.

(m) The amount of water beneficially used, taken from actual measurements, together with such other data as the State Engineer may require to become acquainted with the amount of the appropriation for which the proof is filed.

2. The provisions of subsection 1 do not apply to a person holding an environmental permit ~~[-]~~ *or a temporary permit issued pursuant to section 1 of this act.*

Sec. 8. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the

management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

(l) Upon the request of the State Engineer, review a plan submitted with an application for the issuance of a temporary permit pursuant to section 1 of this act.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrol officers, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 9. This act becomes effective upon passage and approval.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 187 to Senate Bill No. 361 makes a technical change at the request of the State Engineer to adjust the duration of the temporary permit authorized under the bill from one growing season to one year.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 375.

Bill read second time.

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

Amendment No. 150.

"SUMMARY—Authorizes counties and cities to create renewable energy corridors. (BDR 20-18)"

"AN ACT relating to renewable energy corridors; authorizing the governing bodies of cities and counties to create renewable energy corridors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes a board of county commissioners to create one or more renewable energy corridors within the unincorporated areas of the county, to enter into one or more cooperative agreements with other local governments for the purpose of creating a regional renewable energy corridor and to offer certain incentives for participation in a renewable energy corridor.

Section 2 of this bill authorizes the governing body of a city to create one or more renewable energy corridors within the boundaries of the city, to enter into one or more cooperative agreements with other local governments for the purpose of creating a regional renewable energy corridor and to offer certain incentives for participation in a renewable energy corridor.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A board of county commissioners may by ordinance create one or more renewable energy corridors within the unincorporated areas of the county.*

2. *~~1.4~~ Except as otherwise provided in subsection 3, a board of county commissioners may offer incentives for participation in a renewable energy corridor, including without limitation, abatement or partial abatement of*

any taxes that the county may lawfully impose, to any person or business located within the renewable energy corridor ~~¶~~

3. If the board of county commissioners determines that a person or business has been granted, or has an active application for, an abatement or partial abatement of taxes pursuant to any other provision of law, including, without limitation, NRS 274.310, 274.320, 274.330, 360.750, 701A.110 and 701A.300 to 701A.390, inclusive, the person or business may not be granted an abatement or partial abatement of taxes pursuant to this section.

4. A person or business that is granted an abatement or partial abatement of taxes pursuant to this section may not apply for, or be granted, an abatement or partial abatement of taxes pursuant to any other provision of law, including, without limitation, NRS 274.310, 274.320, 274.330, 360.750, 701A.110 and 701A.300 to 701A.390, inclusive.

~~3.7~~ 5. A board of county commissioners may enter into one or more cooperative agreements with the governing body of any incorporated city located within the county or the governing body of any contiguous county for the purpose of creating a regional renewable energy corridor. Any such cooperative agreement must set forth the powers and duties of each participating city or county.

~~4.7~~ 6. As used in this section, "renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (a) Biomass;
- (b) Fuel cells;
- (c) Geothermal energy;
- (d) Solar energy;
- (e) Waterpower; and
- (f) Wind.

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 2. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a city may by ordinance create one or more renewable energy corridors within the boundaries of the city.

2. ~~The~~ Except as otherwise provided in subsection 3, the governing body of a city may offer incentives for participation in a renewable energy corridor, including without limitation, abatement or partial abatement of any taxes that the city may lawfully impose, to any person or business located within the renewable energy corridor ~~¶~~

3. If the governing body of a city determines that a person or business has been granted, or has an active application for, an abatement or partial abatement of taxes pursuant to any other provision of law, including, without limitation, NRS 274.310, 274.320, 274.330, 360.750, 701A.110 and 701A.300 to 701A.390, inclusive, the person or business may not be

granted an abatement or partial abatement of taxes pursuant to this section.

4. A person or business that is granted an abatement or partial abatement of taxes pursuant to this section may not apply for, or be granted, an abatement or partial abatement of taxes pursuant to any other provision of law, including, without limitation, NRS 274.310, 274.320, 274.330, 360.750, 701A.110 and 701A.300 to 701A.390, inclusive.

~~3.7~~ 5. A governing body of a city may enter into one or more cooperative agreements with the board of county commissioners of the county in which the city is located or the governing body of any contiguous city for the purpose of creating a regional renewable energy corridor. Any such cooperative agreement must set forth the powers and duties of each participating city or county.

~~4.7~~ 6. As used in this section, "renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (a) Biomass;
- (b) Fuel cells;
- (c) Geothermal energy;
- (d) Solar energy;
- (e) Waterpower; and
- (f) Wind.

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 3. This act becomes effective on July 1, 2011.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 150 to Senate Bill No. 375 prohibits a city or county from offering any incentives or abatements to a person or business for participation in a renewable energy corridor if the person or business has already received or is applying for any other incentive or abatement from any local government or from the State. In addition, a person granted an incentive or abatement for a renewable energy corridor may not apply for or seek an additional abatement or incentive.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 376.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 164.

"SUMMARY—Increases the penalty for certain technological crimes. (BDR 15-1000)"

"AN ACT relating to crimes; increasing the penalty for certain technological crimes; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law makes it a misdemeanor to commit certain acts that: (1) interfere with or deny access to or use of a computer, system or network; and (2) relate to the use or access of a computer, system, network, telecommunications device, telecommunications service or information service. (NRS 205.477) Under existing law, a misdemeanor is punishable by imprisonment in the county jail for a term of not more than 6 months, or a fine of up to \$1,000, or both. (NRS 193.150) This bill increases the penalty for engaging in such acts from a misdemeanor to a category E felony which is punishable by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years and the court may also impose a fine of not more than \$5,000. For this category of felony, the court is required to grant probation except in certain circumstances.

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

Section 1. NRS 205.477 is hereby amended to read as follows:

205.477 1. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully and without authorization interferes with, denies or causes the denial of access to or use of a computer, system or network to a person who has the duty and right to use it is guilty of a ~~misdemeanor~~ **category E felony and shall be punished as provided in NRS 193.130.**

2. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully and without authorization uses, causes the use of, accesses, attempts to gain access to or causes access to be gained to a computer, system, network, telecommunications device, telecommunications service or information service is guilty of a ~~misdemeanor~~ **category E felony and shall be punished as provided in NRS 193.130.**

3. If the violation of any provision of this section:

(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;

(b) Caused or attempted to cause response costs, loss, injury or other damage in excess of \$500; or

(c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity,

➤ the person is guilty of a category C felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.

4. It is an affirmative defense to a charge made pursuant to this section that at the time of the alleged offense the defendant reasonably believed that:

(a) The defendant was authorized to use or access the computer, system, network, telecommunications device, telecommunications service or information service and such use or access by the defendant was within the scope of that authorization; or

(b) The owner or other person authorized to give consent would authorize the defendant to use or access the computer, system, network, telecommunications device, telecommunications service or information service.

5. A defendant who intends to offer an affirmative defense described in subsection 4 at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

Sec. 2. This act becomes effective upon passage and approval.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Existing law provides that a person is guilty of a category C felony if that person interferes with or gains access to someone else's computer or telecommunications device, and that interference or access caused a financial impact to the victim of \$500.

This amendment includes any attempt to cause a financial impact in excess of at least \$500.

The amendment also changes the effective date to upon passage and approval

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 392.

Bill read second time and ordered to third reading.

Senate Bill No. 393.

Bill read second time.

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

Amendment No. 203.

"SUMMARY—Revises provisions relating to annexation of territory by certain unincorporated towns. (BDR 20-228)"

"AN ACT relating to unincorporated towns; providing for the extension of the debts, laws, ordinances, regulations and municipal taxes of an unincorporated town to any territory annexed by the unincorporated town; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, when a city in a county whose population is ~~1400,000~~ **700,000** or more (currently Clark County) annexes territory, that territory and its inhabitants and property become subject to the debts, laws, ordinances and regulations of the city and are entitled to the same privileges and benefits as other parts of the city. Additionally, the territory is subject to the municipal

taxes of the city levied for the fiscal year following the date of annexation. (NRS 268.598)

This bill establishes the same provisions for an unincorporated town that annexes territory in a county whose population is ~~400,000~~ **700,000** or more.

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

Section 1. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

*In a county whose population is ~~400,000~~ **700,000** or more, from and after the effective date of the annexation of territory by an unincorporated town, the territory annexed and its inhabitants and property are subject to all debts, laws, ordinances and regulations in force in the annexing unincorporated town and are entitled to the same privileges and benefits as other parts of the annexing unincorporated town. The newly annexed territory is subject to municipal taxes levied by the annexing unincorporated town for the fiscal year following the effective date of annexation.*

Sec. 2. This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 203 to Senate Bill No. 393 clarifies that the "municipal taxes" referred to in Senate Bill No. 393 are those associated only with the annexing unincorporated town. It makes the standard technical correction to the new population threshold for Clark County which in the future, on new legislation, will not be 400,000; it will now be a 700,000 population threshold.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 402.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 181.

"SUMMARY—Revises provisions relating to real property. (BDR 9-1090)"

"AN ACT relating to real property; revising provisions relating to covenants that may be adopted by reference in a deed of trust; providing methods by which assumption fees for a change of parties in a deed of trust may be set; requiring a foreclosure sale of commercial property to be held in a location specified in certain recorded documents; **limiting the amount of certain secured interests in foreclosure sales and deficiency judgments**; revising provisions relating to accounting for impound accounts for the payment of certain obligations relating to certain real property; providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 2 of this bill amend a statutory covenant that may be adopted by reference in a deed of trust to allow the parties thereto the alternatives of paying, in connection with a trustee's sale, either reasonable counsel fees and actual costs incurred or counsel fees in an amount equal to a specified percentage of the property secured by the deed of trust.

Section 3 of this bill sets forth certain methods of specifying assumption fees for a change in parties in a deed of trust.

Section 4 of this bill requires a foreclosure sale of commercial property to be conducted at the location specified in the notice of sale recorded by the trustee of a trust deed or transfer in trust.

Section 4.5 of this bill revises provisions limiting the amount of certain secured interests included in the term "indebtedness" for the purpose of foreclosure sales and deficiency judgments.

Sections 5 and 6 of this bill revise provisions relating to accountings for impound accounts for the payment of certain obligations relating to certain real property.

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

Section 1. NRS 107.030 is hereby amended to read as follows:

107.030 Every deed of trust made after March 29, 1927, may adopt by reference all or any of the following covenants, agreements, obligations, rights and remedies:

1. COVENANT NO. 1. That grantor agrees to pay and discharge at maturity all taxes and assessments and all other charges and encumbrances which now are or shall hereafter be, or appear to be, a lien upon the trust premises, or any part thereof; and that grantor will pay all interest or installments due on any prior encumbrance, and that in default thereof, beneficiary may, without demand or notice, pay the same, and beneficiary shall be sole judge of the legality or validity of such taxes, assessments, charges or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

2. COVENANT NO. 2. That the grantor will at all times keep the buildings and improvements which are now or shall hereafter be erected upon the premises insured against loss or damage by fire, to the amount of at least \$...., by some insurance company or companies approved by beneficiary, the policies for which insurance shall be made payable, in case of loss, to beneficiary, and shall be delivered to and held by the beneficiary as further security; and that in default thereof, beneficiary may procure such insurance, not exceeding the amount aforesaid, to be effected either upon the interest of trustee or upon the interest of grantor, or his or her assigns, and in their names, loss, if any, being made payable to beneficiary, and may pay and expend for premiums for such insurance such sums of money as the beneficiary may deem necessary.

3. COVENANT NO. 3. That if, during the existence of the trust, there be commenced or pending any suit or action affecting the conveyed premises, or any part thereof, or the title thereto, or if any adverse claim for or against the

premises, or any part thereof, be made or asserted, the trustee or beneficiary may appear or intervene in the suit or action and retain counsel therein and defend same, or otherwise take such action therein as they may be advised, and may settle or compromise same or the adverse claim; and in that behalf and for any of the purposes may pay and expend such sums of money as the trustee or beneficiary may deem to be necessary.

4. COVENANT NO. 4. That the grantor will pay to trustee and to beneficiary respectively, on demand, the amounts of all sums of money which they shall respectively pay or expend pursuant to the provisions of the implied covenants of this section, or any of them, together with interest upon each of the amounts, until paid, from the time of payment thereof, at the rate of percent per annum.

5. COVENANT NO. 5. That in case grantor shall well and truly perform the obligation or pay or cause to be paid at maturity the debt or promissory note, and all moneys agreed to be paid, and interest thereon for the security of which the transfer is made, and also the reasonable expenses of the trust in this section specified, then the trustee, its successors or assigns, shall reconvey to the grantor all the estate in the premises conveyed to the trustee by the grantor. Any part of the trust property may be reconveyed at the request of the beneficiary.

6. COVENANT NO. 6. That if default be made in the performance of the obligation, or in the payment of the debt, or interest thereon, or any part thereof, or in the payment of any of the other moneys agreed to be paid, or of any interest thereon, or if any of the conditions or covenants in this section adopted by reference be violated, and if the notice of breach and election to sell, required by this chapter, be first recorded, then trustee, its successors or assigns, on demand by beneficiary, or assigns, shall sell the above-granted premises, or such part thereof as in its discretion it shall find necessary to sell, in order to accomplish the objects of these trusts, in the manner following, namely:

The trustees shall first give notice of the time and place of such sale, in the manner provided in NRS 107.080 and may postpone such sale not more than three times by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale, and on the day of sale so advertised, or to which such sale may have been postponed, the trustee may sell the property so advertised, or any portion thereof, at public auction, at the time and place specified in the notice, at a public location in the county in which the property, or any part thereof, to be sold, is situated, to the highest cash bidder. The beneficiary, obligee, creditor, or the holder or holders of the promissory note or notes secured thereby may bid and purchase at such sale. The beneficiary may, after recording the notice of breach and election, waive or withdraw the same or any proceedings thereunder, and shall thereupon be restored to the beneficiary's former position and have and enjoy the same rights as though such notice had not been recorded.

7. COVENANT NO. 7. That the trustee, upon such sale, shall make (without warranty), execute and, after due payment made, deliver to purchaser or purchasers, his, her or their heirs or assigns, a deed or deeds of the premises so sold which shall convey to the purchaser all the title of the grantor in the trust premises, and shall apply the proceeds of the sale thereof in payment, firstly, of the expenses of such sale, together with the reasonable expenses of the trust, including counsel fees, in an amount equal to percent of the amount secured thereby and remaining unpaid ~~to~~ **or reasonable counsel fees and costs actually incurred**, which shall become due upon any default made by grantor in any of the payments aforesaid; and also such sums, if any, as trustee or beneficiary shall have paid, for procuring a search of the title to the premises, or any part thereof, subsequent to the execution of the deed of trust; and in payment, secondly, of the obligation or debts secured, and interest thereon then remaining unpaid, and the amount of all other moneys with interest thereon herein agreed or provided to be paid by grantor; and the balance or surplus of such proceeds of sale it shall pay to grantor, his or her heirs, executors, administrators or assigns.

8. COVENANT NO. 8. That in the event of a sale of the premises conveyed or transferred in trust, or any part thereof, and the execution of a deed or deeds therefor under such trust, the recital therein of default, and of recording notice of breach and election of sale, and of the elapsing of the 3-month period, and of the giving of notice of sale, and of a demand by beneficiary, his or her heirs or assigns, that such sale should be made, shall be conclusive proof of such default, recording, election, elapsing of time, and of the due giving of such notice, and that the sale was regularly and validly made on due and proper demand by beneficiary, his or her heirs and assigns; and any such deed or deeds with such recitals therein shall be effectual and conclusive against grantor, his or her heirs and assigns, and all other persons; and the receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase money, according to the trusts aforesaid.

9. COVENANT NO. 9. That the beneficiary or his or her assigns may, from time to time, appoint another trustee, or trustees, to execute the trust created by the deed of trust or other conveyance in trust. A copy of a resolution of the board of directors of beneficiary (if beneficiary be a corporation), certified by the secretary thereof, under its corporate seal, or an instrument executed and acknowledged by the beneficiary (if the beneficiary be a natural person), shall be conclusive proof of the proper appointment of such substituted trustee. Upon the recording of such certified copy or executed and acknowledged instrument, the new trustee or trustees shall be vested with all the title, interest, powers, duties and trusts in the premises vested in or conferred upon the original trustee. If there be more than one trustee, either may act alone and execute the trusts upon the request of the beneficiary, and all of the trustee's acts thereunder shall be deemed to be the acts of all

trustees, and the recital in any conveyance executed by such sole trustee of such request shall be conclusive evidence thereof, and of the authority of such sole trustee to act.

Sec. 2. NRS 107.040 is hereby amended to read as follows:

107.040 1. In order to adopt by reference any of the covenants, agreements, obligations, rights and remedies in NRS 107.030, it shall only be necessary to state in the deed of trust the following: "The following covenants, Nos., ... and (inserting the respective numbers) of NRS 107.030 are hereby adopted and made a part of this deed of trust."

2. A deed of trust or other conveyance in trust, in order to fix the amount of insurance to be carried, need not reincorporate the provisions of Covenant No. 2 of NRS 107.030, but may merely state the following: "Covenant No. 2," and set out thereafter the amount of insurance to be carried.

3. In order to fix the rate of interest under Covenant No. 4 of NRS 107.030, it shall only be necessary to state in such trust deed or other conveyance in trust, "Covenant No. 4," and set out thereafter the rate of interest to be charged thereunder.

4. In order to fix the amount or percent of counsel fees under Covenant No. 7 of NRS 107.030, it shall only be necessary to state in such deed of trust, or other conveyance in trust, the following: "Covenant No. 7," and set out thereafter *either* the percentage to be allowed $\frac{1}{2}$ *or, in lieu of the percentage to be allowed, reasonable counsel fees and costs actually incurred.*

Sec. 3. NRS 107.055 is hereby amended to read as follows:

107.055 If a party to a deed of trust, executed after July 1, 1971, desires to charge an assumption fee for a change in parties, the amount of such charge must be clearly set forth in the deed of trust at the time of execution. *Without limiting or prohibiting any other method by which the amount of the charge may be clearly set forth in the deed of trust, the charge may be set forth as:*

1. *A fixed sum;*
2. *A percentage of the amount secured by the deed of trust and remaining unpaid at the time of assumption; or*
3. *The lesser of, the greater of or some combination of the amounts determined by subsections 1 and 2.*

Sec. 4. NRS 107.081 is hereby amended to read as follows:

107.081 1. All sales of property pursuant to NRS 107.080 must be made at auction to the highest bidder and must be made between the hours of 9 a.m. and 5 p.m. The agent holding the sale must not become a purchaser at the sale or be interested in any purchase at such a sale.

2. All sales of real property must be made:

(a) ***For a residential foreclosure or foreclosure of a residential unit:***

(1) In a county with a population of less than 100,000, at the courthouse in the county in which the property or some part thereof is situated.

~~{(b)}~~ (2) In a county with a population of 100,000 or more, at the public location in the county designated by the governing body of the county for that purpose.

(b) For a foreclosure of commercial property, at a location in the county in which the property or some part thereof is situated as specified in the notice of sale recorded by the trustee of the trust deed or transfer in trust.

3. *For the purposes of this section:*

(a) "Commercial property" has the meaning ascribed to it in NRS 645E.040.

(b) "Residential foreclosure" has the meaning ascribed to it in NRS 107.080.

(c) "Residential unit" means a unit in a common-interest community that is used exclusively for residential use, as those terms are defined in chapter 116 of NRS.

Sec. 4.5. NRS 40.451 is hereby amended to read as follows:

40.451 As used in NRS 40.451 to 40.463, inclusive, "indebtedness" means the principal balance of the obligation secured by a mortgage or other lien on real property, together with ~~{all}~~ :

1. All interest accrued and unpaid prior to the time of foreclosure sale ~~{, all}~~ ;

2. All costs and fees of such a sale ~~{, all}~~ ;

3. All advances made with respect to the property by the beneficiary ~~{, all}~~ and ~~{all}~~

4. All other amounts secured by the mortgage or other lien on the real property in favor of the person seeking the deficiency judgment. Such ~~{amount constituting a lien is}~~ other amounts are limited to the amount ~~{of the consideration}~~ paid by the lienholder ~~{, or the predecessor of the lienholder}~~.

Sec. 5. NRS 100.091 is hereby amended to read as follows:

100.091 1. For each loan requiring the deposit of money to an escrow account, loan trust account or other impound account for the payment of taxes, assessments, rental or leasehold payments , ~~{or fire, hazard or other}~~ insurance premiums ~~{, or other obligations related to the encumbered property}~~, the lender shall ~~{, at}~~ :

(a) Require contributions in an amount reasonably necessary to pay the obligations as they become due.

(b) Unless money in the account is insufficient, pay in a timely manner the obligations as they become due.

(c) At least annually, analyze the account. The analysis of each account must be performed to determine whether sufficient money is contributed to the account on a monthly basis to pay for the projected disbursements from the account. At least 30 days before the effective date of any increased contribution to the account based on the analysis, a statement must be sent to the borrower showing the method of determining the amount of money held in the account, the amount of projected disbursements from the account and

the amount of the reserves which may be held in accordance with federal guidelines.

2. If, upon completion of the analysis, it is determined that an account is not sufficiently funded to pay from the normal payment the items when due on the account, the lender shall offer the borrower the opportunity to correct the deficiency by making one lump-sum payment or by making increased monthly contributions, in an amount required by the lender. The lender shall not declare a default on the account solely because the borrower is unable to pay the amount of the deficiency in one lump sum.

3. *Except for payments made by a borrower for a lender to recover previous deficiencies in contributions to the account pursuant to subsection 2, the borrower is entitled pursuant to subsection 4 to the amount by which the borrower's contributions to the account exceed the amount reasonably necessary to pay the annual obligations due from the account, together with interest thereon at the rate established pursuant to NRS 99.040.*

4. If, upon completion of the analysis, it is determined that the amount of money held by the lender in the account, together with anticipated future monthly contributions to the account to be credited to the account before the dates items are due on the account, exceed the amount of money required to pay the items when due, the lender shall, ~~at the option of~~ *not later than 30 days after completion of its annual review of the account, notify the borrower:*

(a) Of the amount by which the contributions and interest earned pursuant to subsection 3 exceed the amount reasonably necessary to pay the annual obligations due from the account; and

(b) That the borrower ~~either repay~~ may, not later than 20 days after receipt of the notice, specify that the lender:

(1) Repay the excess money and interest promptly to the borrower ~~to~~ apply;

(2) Apply the excess money and interest to the outstanding principal balance; or ~~retain~~

(3) Retain the excess money and interest in the account.

5. *If the borrower fails to specify the disposition of the excess money and interest as provided in paragraph (b) of subsection 4, the lender shall maintain the excess money and interest in the account.*

6. If any payment on the loan is delinquent at the time of the analysis, the lender shall retain any excess money *and interest* in the account and apply the *excess money and interest* in the account toward payment of the delinquency.

~~[4.]~~ 7. *A lender who violates any provision of subsections 4, 5 and 6 is liable to the borrower for a civil penalty of not more than \$1,000.*

8. *The provisions of this section apply exclusively to:*

(a) A loan secured by a single family residence, as that term is defined in NRS 107.080; and

(b) A unit in a common-interest community that is used exclusively for residential use, as those terms are defined in chapter 116 of NRS.

9. As used in this section:

(a) "Borrower" means any person who receives a loan secured by real property and who is required to make advance contributions for the payment of taxes, insurance premiums or other expenses related to the property.

(b) "Lender" means any person who makes loans secured by real property and who requires advance contributions for the payment of taxes, insurance premiums or other expenses related to the property.

Sec. 6. NRS 106.105 is hereby repealed.

TEXT OF REPEALED SECTION

106.105 Contributions; payment of obligations; notice regarding and disposition of excess money; civil penalty.

1. Except as otherwise provided in subsection 2, a lender who requires a borrower to make advance contributions to an impound trust account, or an account of similar name, for the payment of taxes, insurance premiums or other obligations related to the encumbered property shall:

(a) Require contributions in an amount reasonably necessary to pay the obligations as they become due.

(b) Unless money in the account is insufficient, pay in a timely manner the obligations as they become due.

(c) Within 30 days after the completion of its annual review of the account, notify the borrower:

(1) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual obligations due from the account; and

(2) That the borrower may specify the disposition of the excess money within 20 days after receipt of the notice. If the borrower fails to specify such a disposition within that time, the lender shall maintain the excess money in the account.

➤ A lender who violates any provision of this subsection is liable to the borrower for a civil penalty of not more than \$1,000.

2. A lender, to recover previous deficiencies in contributions to an impound trust account, may require contributions to the account in an amount greater than that reasonably necessary to pay the obligations as they become due. The borrower is otherwise entitled to the amount by which the borrower's contributions to the account exceed the amount reasonably necessary to pay the annual obligations due from the account, together with interest thereon at the rate established pursuant to NRS 99.040.

3. As used in this section:

(a) "Borrower" means a mortgagor, grantor of a deed of trust or other obligor on a loan secured by a lien upon real property.

(b) "Lender" means a mortgagee, beneficiary of a deed of trust or other obligee on a loan secured by a lien upon real property, and his or her successor in interest.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment revises provisions limiting the amount of certain secured interests included in the term "indebtedness" for the purpose of foreclosure sales and deficiency judgments.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bills Nos. 403, 417, 488, 495; Senate Joint Resolution No. 8, be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

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

Senate in recess at 11:41 a.m.

SENATE IN SESSION

At 12:24 p.m.

President Krolicki presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Assistant Secretary of the Senate signed Senate Concurrent Resolution No. 6.

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 Kelly Gregory.

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Haley Brower.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Diane Baranowski.

Senator Wiener moved that the Senate adjourn until Monday, April 18, 2011, at 12 p.m.

Motion carried.

Senate adjourned at 12:26 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

THE SEVENTY-FIRST DAY

CARSON CITY (Monday), April 18, 2011

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

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Ron Torkelson.

Dear God,

I pray this morning for the country we represent and the State of Nevada that these men and women govern. I recognize that it is no simple task given to these people.

Our times are filled with economic challenges, job loss, a multitude of homeless families and no simple solutions to the dilemmas. Therefore, my prayer this morning is that You will give each Senator here the wisdom to know what is best for the people of Nevada and the courage to stand for what is right.

I pray that they may look beyond personal preference and together work toward strengthening this state we call home.

Thank You, God, that we live in a nation of the free. I pray that these freedoms will be the motivation for the business of this day.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Senate Bill No. 281, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 142, 182, 259, 273, 288, 294, 331, 411, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Education, to which was referred Senate Bills Nos. 38, 315, 365, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was referred Senate Bill No. 197, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

MO DENIS, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Senate Bill No. 494, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

Also, your Committee on Government Affairs, to which was referred Senate Bill No. 360, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

JOHN J. LEE, *Chair*

Mr. President:

Your Select Committee on Economic Growth and Employment, to which were referred Senate Bills Nos. 75, 106, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RUBEN J. KIHUEN, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 144, 154, 248, 406, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation, to which were referred Senate Bills Nos. 15, 130, 140, 238, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Transportation, to which was referred Senate Bill No. 441, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and re-refer to the Committee on Finance.

Also, your Committee on Transportation, to which was referred Senate Bill No. 320, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and re-refer to the Committee on Finance.

SHIRLEY A. BREEDEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 15, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 565.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 15, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 46.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 320.

MARK KRMPOTIC

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that Senate Bill No. 197 be re-referred to the Committee on Finance.

Motion carried.

Senator Breeden moved that Senate Bills Nos. 320, 441 be re-referred to the Committee on Finance.

Motion carried.

Senator Lee moved that Senate Bill No. 494 be re-referred to the Committee on Finance.

Motion carried.

Senator Horsford moved that the following persons be accepted as accredited press representatives and that they be assigned space at the press table and allowed the use of appropriate media facilities: Lake Tahoe News: Anne Knowles and LGBT – Reno.net: Wheeler Cowperthwaite.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 10, 24, 26, 40, 57, 81, 110, 112, 127, 152, 159, 180, 194, 196, 198, 213, 251, 256, 262, 268, 277, 284, 309, 361, 368, 375, 376, 392, 393, 402; Assembly Bills Nos. 30, 144 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 187.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 117.

"SUMMARY—Revises provisions governing parole. (BDR 16-640)"

"AN ACT relating to parole; replacing the requirement for prisoners convicted of certain sexual offenses to be certified by a panel before being released on parole with a process to evaluate such prisoners before their parole is granted or continued; authorizing the State Board of Parole Commissioners to request an evaluation of certain sex offenders; revising provisions relating to immunity from liability based upon certain actions of a panel; providing that certain meetings of a panel are subject to ~~and exempt from~~ the provisions of the Open Meeting Law; requiring the adoption of regulations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits the State Board of Parole Commissioners from releasing on parole a prisoner convicted of certain sexual offenses unless a panel certifies that the prisoner does not represent a high risk to reoffend. (NRS 213.1214) The Nevada Supreme Court has held that: (1) certification by a panel is necessary only when parole will lead to a prisoner's release from prison; (2) the statutory immunity from liability does not prohibit a cause of action regarding the process of conducting a panel hearing or the validity of the statute; and (3) when the panel considers new allegations, the panel must comply with the requirements of the Open Meeting Law. (*Stockmeier v. Psychol. Rev. Panel*, 122 Nev. 385 (2006))

This bill: (1) removes the requirement that a prisoner convicted of certain sexual offenses be certified by a panel and instead requires that before being granted or continued on parole, such a prisoner be evaluated by a panel as to his or her risk to reoffend in a sexual manner; (2) authorizes the State Board of Parole Commissioners to require an evaluation of a sex offender if the evaluation may assist the Board in certain decisions related to parole; (3) clarifies that a prisoner does not have a right to be evaluated or

reevaluated by a panel and that the actions of a panel in evaluating, not evaluating or considering or relying on an evaluation do not give rise to a cause of action; and (4) provides that certain meetings of a panel are subject to ~~and exempt from~~ the requirements of the Open Meeting Law.

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

Section 1. NRS 213.1214 is hereby amended to read as follows:

213.1214 1. The Board shall not ~~release on~~ *grant parole to or continue the parole of a prisoner who has served, is serving or has yet to serve a sentence on his or her current term of imprisonment for having been* convicted of an offense listed in subsection ~~5~~ **8** unless a panel consisting of:

(a) The Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his or her designee;

(b) The Director of the Department of Corrections or his or her designee; and

(c) A psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State,

↪ ~~certifies that~~ *evaluates* the prisoner ~~was under observation while confined in an institution of the Department of Corrections and does not represent a high risk to reoffend based upon~~, *within 120 days before a hearing to consider granting or continuing his or her parole, using a currently accepted standard of assessment to determine the prisoner's likelihood to reoffend in a sexual manner. The panel shall provide a report of its evaluation to the Board before the hearing.*

2. ~~A prisoner who has been certified pursuant to subsection 1 and who returns for any reason to the custody of the Department of Corrections may not be paroled unless a panel recertifies the prisoner in the manner set forth in subsection 1.~~ *The Board may require the panel to conduct an evaluation of a prisoner who is a sex offender, as defined in NRS 179D.095, if an evaluation may assist the Board in determining whether parole should be granted or continued. The panel shall provide a report of its evaluation to the Board before the hearing to consider granting or continuing the prisoner's parole.*

3. ~~The panel may revoke the certification of a prisoner certified pursuant to subsection 1 at any time.~~

—4.4 This section does not create a right in any prisoner to be ~~certified or to continue to be certified. No prisoner may bring a~~ *evaluated or reevaluated more frequently than the prisoner's regularly scheduled parole hearings or under a current or previous standard of assessment and does not restrict the panel from conducting an evaluation additional evaluations of a prisoner if an evaluation such evaluations may assist the Board in determining whether parole should be granted or continued. No cause of action may be brought* against the State, its political subdivisions, or

the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for ~~{not certifying}~~ ***evaluating, not evaluating or considering or relying on an evaluation of*** a prisoner ~~{pursuant to}~~, ***if such decisions or actions are made or conducted in compliance with the procedures set forth in*** this section. ~~{or for refusing to place a prisoner before a panel for certification pursuant to this section.}~~

—5.} ***4. The panel shall adopt regulations pertaining to the evaluation of prisoners subject to the provisions of this section to determine a prisoner's risk to reoffend in a sexual manner. The regulations must be adopted in accordance with the provisions of chapter 233B of NRS and must be codified in the Nevada Administrative Code.***

5. The regulations adopted pursuant to subsection 4 must require that:

(a) The evaluation be based on currently accepted standards of assessment designed to determine the risk of an offender to reoffend in a sexual manner;

(b) ~~{The report of the evaluation contain a statement by the panel as to the validity of the evaluation based on other information known about the prisoner that may mitigate or aggravate the results of the evaluation; and~~

~~{(e)} The report of the evaluation contain a statement rating the prisoner as a low, moderate or high risk to reoffend in a sexual manner ~~{+}~~; and~~

(c) If the report of the evaluation varies from the standard of assessment, the panel include a written statement of any mitigating or aggravating factors which justified such deviation.

6. The panel shall:

(a) Review the standards of assessment and procedures adopted by regulation at least once every 3 years; and

(b) Make a finding regarding the validity of the use of any standard of assessment.

7. If the panel finds that a standard of assessment is ineffective, or another standard of assessment is more effective, in predicting whether a prisoner may reoffend in a sexual manner, the panel may discontinue the use of the current standard of assessment and adopt a new standard of assessment that is determined to be more effective.

8. The provisions of this section apply to a prisoner convicted of any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(d) Abuse or neglect of a child pursuant to NRS 200.508 ~~{+}~~, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony.

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(f) Incest pursuant to NRS 201.180.

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

- (h) Open or gross lewdness pursuant to NRS 201.210.
- (i) Indecent or obscene exposure pursuant to NRS 201.220.
- (j) Lewdness with a child pursuant to NRS 201.230.
- (k) Sexual penetration of a dead human body pursuant to NRS 201.450.
- (l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.
- (m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive.
- (n) An offense that is determined to be sexually motivated pursuant to NRS 175.547.

(o) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.

9. The Board may adopt by regulation the manner in which the Board will consider an evaluation prepared pursuant to this section in conjunction with the standards adopted by the Board pursuant to NRS 213.10885.

10. Meetings of a panel ~~for~~

~~— (a) To evaluate a prisoner pursuant to this section are not required to comply with the provisions of chapter 241 of NRS.~~

~~— (b) To consider matters other than to evaluate a prisoner] pursuant to this section must be conducted in accordance with the provisions of chapter 241 of NRS.~~

11. As used in this section:

(a) "Current term of imprisonment" means one or more sentences being served concurrently or consecutively with the sentence first imposed.

(b) "Reoffend in a sexual manner" means to commit any offense listed in subsection 8.

(c) "Sex offender" means a person who, after July 1, 1956, is or has been:

(1) Convicted of a sexual offense; or

(2) Adjudicated delinquent or found guilty by a court having jurisdiction over juveniles of a sexual offense listed in subparagraph 19 of paragraph (d).

↳ The term includes, but is not limited to, a sexually violent predator or a nonresident sex offender who is a student or worker within this State.

(d) "Sexual offense" means any of the following offenses:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210.

(12) Indecent or obscene exposure pursuant to NRS 201.220.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

(16) An attempt or conspiracy to commit an offense listed in subparagraphs 1 to 15, inclusive.

(17) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

(18) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this paragraph. This subparagraph includes, but is not limited to, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(19) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this paragraph, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subparagraph includes, but is not limited to, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(III) A court having jurisdiction over juveniles.

↪ The term does not include an offense involving consensual sexual conduct if the victim was an adult, unless the adult was under the custodial

authority of the offender at the time of the offense, or if the victim was at least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

Sec. 2. The amendatory provisions of this act apply to any person who is subject to the provisions of NRS 213.1214 on or after October 1, 2011, whether or not the person was convicted before, on or after October 1, 2011.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment makes two specific clarifications to the bill. It states that a prisoner does not have the right to be evaluated more frequently than the regularly scheduled parole hearings, but may be evaluated more frequently if it will assist the panel in determining whether parole should be granted or continued.

The amendment also states that the actions of the panel do not give rise to a cause of action provided that the decisions or actions made are consistent with the procedures outlined in the measure.

Finally, the amendment provides regulations adopted by the panel must require written findings under certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to the General File.

Senate Bill No. 209.

Bill read second time and ordered to third reading.

Senate Bill No. 304.

Bill read second time and ordered to third reading.

Senate Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 180.

"SUMMARY—Revises provisions relating to the information which must be provided by a unit's owner in a resale transaction. (BDR 10-1126)"

"AN ACT relating to common-interest communities; revising provisions relating to the information which must be provided by a unit's owner in a resale transaction; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill revises provisions relating to the information which must be provided in a resale package by a unit's owner for the benefit of a purchaser in a resale transaction.

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

Section 1. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the

expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095. ~~{}~~

(b) A statement *from the association* setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind, *including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees* currently due from the selling unit's owner. ~~{}~~ *The statement remains effective for the period specified in the statement, which must not be less than ~~10~~ 15 working days from the date of delivery by the association to the unit's owner or his or her agent. If the association becomes aware of an error in the statement before the consummation of the resale, the association must deliver a replacement statement to the unit's owner or his or her agent and obtain an acknowledgment in writing by the unit's owner or his or her agent before that consummation. Unless the unit's owner or his or her agent receives a replacement statement, the unit's owner or his or her agent may rely upon the accuracy of the information set forth in a statement provided by the association for the resale.*

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152. ~~{}~~

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge. ~~{}~~

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit. ~~{}~~ ~~and~~

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments

made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

- (a) Cancel the contract pursuant to this subsection; or
- (b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

- (a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

- (b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d) and (e) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

- (a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

- (b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

- (c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

- (d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and

audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment increases from 10 to 15 working days the period of time that a statement of assessments remains in effect for purposes of a resale package.

Amendment adopted.

Bill ordered reprinted, engrossed and to the General File.

Senate Bill No. 417.

Bill read second time and ordered to third reading.

Senate Bill No. 432.

Bill read second time and ordered to third reading.

Senate Bill No. 488.

Bill read second time and ordered to third reading.

Senate Bill No. 495.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 8.

Resolution read second time.

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

Amendment No. 142.

"SUMMARY—Urges ~~the Federal Government and certain other governmental entities~~ **Congress to enact legislation or take other appropriate action** to expedite and streamline the requirements for conducting mining operations in this State. (BDR R-1035)"

SENATE JOINT RESOLUTION—Urging ~~the Federal Government and certain other governmental entities~~ **Congress to enact legislation or take other appropriate action** to expedite and streamline the requirements for conducting mining operations in this State.

WHEREAS, Since the earliest days of statehood, the State of Nevada has been known for containing vast deposits of minerals located throughout the State ~~for~~ **, including copper, gold, silver, lithium, molybdenum, barite and other minerals essential to the security, economy, technological innovation, conventional and renewable energy infrastructure and daily life of the United States;** and

WHEREAS, Because of the availability of those mineral deposits, mining is ~~one of the larger industries~~ **an important industry** in the State of Nevada ~~which~~ **and** has traditionally provided many high-paying jobs for

local communities and has contributed to the communities in other ways such as investing in infrastructure and services for those communities; and

WHEREAS, ~~{Mining operations in the State of Nevada are highly regulated by numerous governmental entities at the state and federal levels, including, without limitation, regulation by Congress, the Secretary of Agriculture, the Secretary of the Interior, the Bureau of Land Management, the United States Forest Service and the Division of Environmental Protection of the State Department of Conservation and Natural Resources;}~~ **The reliance of the United States on foreign sources of many important minerals impedes economic recovery, limits economic growth and creates vulnerabilities in the chain of supply that potentially threatens the national security of the United States;** and

WHEREAS, ~~{Because of that regulation, to conduct a mining operation in the State of Nevada, an owner or operator of a mine must comply with numerous requirements, including, without limitation, preparing and filing a notice or plan of operation, obtaining the appropriate air quality and water quality permits, obtaining a permit to appropriate water for use in the mining operation, obtaining rights-of-way for access to and the transmission of electricity for the mining operation and obtaining a local business license;}~~ **Increasing the amount of production of Nevada's minerals, including, without limitation, copper, gold and silver, that are exported worldwide would aid in the reduction of the trade deficit of the United States and would thus be highly beneficial to the national economy;** and

WHEREAS, ~~{Complying with those requirements is often burdensome and expensive, sometimes requiring up to 10 years and more than \$1 billion before a mining operation is able to produce any minerals;}~~ **Mining supports a significant portion of the local economies of rural Nevada and creates jobs that pay employees an average of \$81,800 per year;** and

WHEREAS, ~~{In recent years, the need for developing energy from geothermal, solar, wind and other sources has become increasingly important;}~~ **Exploration for minerals is a source of capital investment in Nevada, supports the discovery of new mineral deposits that may become future or expanded mines, contributes significantly to state and local tax revenues and provides other economic benefits to Nevada and local economies in Nevada;** and

WHEREAS, ~~{To meet that need, the procedure for obtaining permits and rights-of-way and complying with other requirements to develop those sources of energy have recently been expedited and streamlined;}~~ **Because approximately 87 percent of the land in Nevada is managed and controlled by the Federal Government, most mineral exploration and mining activities occur entirely or partially on federal land and permits must be secured for those activities from the Bureau of Land Management and the United States Forest Service;** and

WHEREAS, The ~~{expeditious development of mineral deposits in this State is also essential for the creation of jobs, the payment of taxes and the~~

~~continued contribution of infrastructure and services to local communities by the mining industry in this State;~~ permitting processes of the Bureau of Land Management and the United States Forest Service for mineral exploration and mine development are the source of significant and problematic delays that cost jobs, injure Nevada's economy and impede national economic interests; and

WHEREAS, An estimated 2,500 high-paying mining jobs are currently being delayed for an unspecified and unreasonable period because those permitting processes often require 3 years or longer to complete; and

WHEREAS, Delays in the permitting process for mineral exploration projects are creating a significant delay in the rate of discovery of new mineral deposits that may be developed into new or expanded mines; and

WHEREAS, Delays in the permitting process and the resulting reduction in the rate of discovery of new mineral deposits are significant reasons that gold and silver production from mines in Nevada has declined dramatically in the last decade, which has resulted in unrealized jobs and tax revenues that would otherwise be generated from those mines; and

WHEREAS, The process of the Bureau of Land Management for the review and publication of notices in the Federal Register announcing the intent of the Bureau of Land Management to prepare an environmental impact statement and the availability of draft and final environmental impact statements often add up to 1 year to the mine permitting process; and

WHEREAS, Expediting the permitting processes of the Bureau of Land Management and the United States Forest Service to materially diminish the time required to approve mineral exploration and mine development projects would make a significant contribution to Nevada's economy and the national economic interests by increasing mining and mineral exploration jobs and increasing tax revenues from mining, including, without limitation, revenues from sales and use taxes, net proceeds taxes, modified business taxes and property taxes; and

WHEREAS, Implementing procedures to expedite the permitting of mineral exploration and mine development projects is of equal importance to the economy of Nevada and the United States as the similarly expedited permitting schemes already endorsed for renewable energy projects; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That ~~the Federal Government and each governmental entity in this State which regulates the activities of mining operations in this State are hereby urged to expedite and streamline the procedure for obtaining permits and complying with any other requirement for conducting those mining operations;~~ the members of the 76th Session of

the Nevada Legislature hereby urge Congress to enact legislation or take other appropriate action directing the Secretary of Agriculture, the Secretary of the Interior, the Chief of the United States Forest Service, the Director of the Bureau of Land Management, the Director of the Nevada State Office of the Bureau of Land Management and the Forest Supervisor for the Humboldt-Toiyabe National Forest to pursue, together with the appropriate governmental entities in this State, methods and procedures that expedite or may expedite the permitting processes for mineral exploration and development of mines in this State; and be it further

RESOLVED, That the Secretary of the Interior and the Director of the Bureau of Land Management are hereby urged to eliminate any burdensome and unreasonable delays associated with the process of the Bureau of Land Management for the review and publication of notices in the Federal Register; and be it further

RESOLVED, That, cooperatively with the appropriate governmental entities in this State, the Secretary of Agriculture, the Secretary of the Interior, the Chief of the United States Forest Service, the Director of the Bureau of Land Management, the Director of the Nevada State Office of the Bureau of Land Management and the Forest Supervisor for the Humboldt-Toiyabe National Forest are hereby urged to establish streamlined permitting time frames consistent with the goals of this State for economic recovery and with national economic interests; and be it further

RESOLVED, That such a streamlined permitting process must include the following requirements:

1. The Bureau of Land Management should approve or deny any project that requires a notice within 15 calendar days after the date of submittal of a complete notice application;

2. The United States Forest Service should approve or deny any small exploration project that may be evaluated with a categorical exclusion within 4 months after the date of submittal of a complete application for the small exploration project;

3. The Bureau of Land Management and the United States Forest Service should approve or deny any project that requires an exploration plan of operation within 4 months after the date of submittal of a complete application for the plan of operation;

4. The Bureau of Land Management's process for review and publication of notices in the Federal Register announcing the intent of the Bureau of Land Management to prepare an environmental impact statement or announcing the availability of a draft and final environmental impact statement should be completed in 2 weeks; and

5. The Bureau of Land Management and the United States Forest Service should approve or deny a plan of operation for a mining project

within 12 months after the date of submittal of a complete plan of operation for that mining project; and be it further

RESOLVED, That Congress is hereby urged to enact legislation or take other appropriate action directing the Secretary of Agriculture, the Secretary of the Interior, the Chief of the United States Forest Service, the Director of the Bureau of Land Management, the Director of the Nevada Office of the Bureau of Land Management and the Forest Supervisor for the Humboldt-Toiyabe National Forest to provide quarterly progress reports to Congress, the Speaker of the Nevada Assembly, the Majority Leader of the Nevada Senate and the Governor of Nevada setting forth the following information:

1. A list specifying each proposed mineral exploration and mining project that the Bureau of Land Management and the United States Forest Service are reviewing and the date that the Bureau of Land Management and the United States Forest Service began reviewing each of those projects;

2. The anticipated target date on which each proposed mineral exploration and mining project permit will be approved or denied;

3. An assessment of the performance of the Bureau of Land Management and the United States Forest Service in meeting the streamlined permitting objectives;

4. If the streamlined permitting objectives have not or may not be met, a detailed explanation of the reasons for failing to meet those objectives; and

5. Any additional resources that the Bureau of Land Management and the United States Forest Service need to meet the requirements of the streamlined permitting process; and be it further

RESOLVED, That Congress is hereby urged to enact legislation or take other appropriate action directing the Secretary of Agriculture, the Secretary of the Interior, the Chief of the United States Forest Service, the Director of the Bureau of Land Management, the Director of the Nevada State Office of the Bureau of Land Management and the Forest Supervisor for the Humboldt-Toiyabe National Forest to take all necessary steps to provide adequate staffing and resources consistent with achieving the streamlined permitting objectives; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the ~~Secretary of Agriculture, the Secretary of the Interior, the Chief of the United States Forest Service, the Director of the Bureau of Land Management,~~ Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation ; ~~the Governor of the State of Nevada, the Director of the State Department of Conservation and Natural Resources and the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;~~ and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

This amendment replaces most of the language in the resolution to explain in greater detail the importance of mining in the State of Nevada and how expediting the permitting process would make a significant contribution to Nevada's economy and national economic interests.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the General File.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 565.

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

Motion carried.

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 Christopher McEntire, Carey McEntire, Sylvia Fleming, Robert Fleming, and Robin Renshaw.

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to Stephen Allott, Ralph Champion and Karen Taycher.

On request of Senator Copenig, the privilege of the Floor of the Senate Chamber for this day was extended to Austin Schirling.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Simone Simpson.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students and adults from the Diedrichsen Elementary School: Carson Baker, Ashen Beeaff, Amanda Carbonell, Austin Cuellar, Cameron Draper, Dayna Espinoza, Caden Fernandez, Kristian Fernandez, Daniel Hampton, Cody Herron, Isaiah Johnson, Tanner Johnson, Natalie Kersting, Cameron Kygar, Beverly Lawson, Noah LeDuc, Ashley Leach-Knowles, Kaiti McCurdy, Kayla McKee, Mason McManus, Kiel Mendoza, Emily Nicholas-Ornbaum, Param Patel, Eva Przybyla, Ivette Rodriguez, Brockden Roelofs, Angel Solis, Brennin Switzer, Jonathan Taff, Jacinda Tuttle, Sophia Vargas, Alyssa Alexander, Ian Alvarado, Christopher Archila, Andrew Beas, Annabelle Bradley, Tristan Bryant Moore, Brandyn Christensen, Zoey Cotter, Zackary Dailey, Jakob Delossantos, Jacob Feierabend, Jordan Forgunson, Cierra Gayfield, Natalie Grady, Diego Hernandez Chavarin, Hugo Herrera, Amanda Kent, Jared Linker, Tyler McTigue, Lorraina Mize Williams, Caleb Mozingo, Patricia Nelson, Natasha Olmstead, Brandon Randall, Victor Salas

Rios, Lexsie Samuels Herbert, Serina Sanchez, Carlos Sanchez Quintero, Ariez Suarez, Rider Valdovinos, Katie Walter, Patrick Watts, Chris Colburn, Taylor Babineau, Anthony Gaskey; adults: Tim Kygar, Dave Carbon, Dawn Cuellar, Maylene Fernandez, Philip Tuttle, Cierra Bannister, Starla Espinoza, Stephanie Johnson, Sherry Johnson , Brent Roelofs, Rex Cotter, Rosie Suarez, Dawn Sellers, Luis Archila, Arizbeth Mazariago, Brandy Welch, Kathy Alonzo and Jonice Marks.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Alyse Williams, Felicity Eddy, former Senator Mike Malone and Teresa Malone.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Yvette Williams and Stavan Corbett.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Angela Foremaster, Celeste Foremaster, and Shawina Tims.

On request of Senator Manendo, the privilege of the Floor of the Senate Chamber for this day was extended to Charlene Gumber, Samuel Arjona, and Roosevelt Thompson.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to Kandeh Jones.

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to Lauren Scott, Gail Hilyard and Gary Murphy.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Liberty Roberson.

On request of Senator Schneider, the privilege of the Floor of the Senate Chamber for this day was extended to Dominique Williams and Nyla Whalum.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to Shavon Turner and Raul Rodriguez.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Elizabeth Krolicki, Caroline Krolicki and Kate Krolicki.

Senator Horsford moved that the Senate adjourn until Tuesday, April 19, 2011, at 11 a.m. and that it do so in memory of University of Nevada Reno President Milton Glick.

Motion carried.

Senate adjourned at 1:03 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE SEVENTY-SECOND DAY

CARSON CITY (Tuesday), April 19, 2011

Senate called to order at 11:07 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Ron Torkelson.

Dear God,

Your Scripture encourages people to "worry about nothing, pray about everything, and rejoice." The promise is that You can bring good from what appears to be chaos. The amazing truth is that You have chosen these people standing here to do just that. The evening news has reported the challenges and the decisions this body of people have been dealing with and it is no simple task.

Therefore, I pray once again for the wisdom You have promised to give. Use these people today to do that which is best for this State and the people who live here.

Thank You for the success You have promised.

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.

COMMUNICATIONS

The Secretary of the Senate read a letter to former Senator Raggio from former Secretary of the Senate Janice L. Thomas.

Dear Senator Raggio:

I was honored to have been serving under your esteemed leadership when you created this wonderful tribute, initially, for a gentleman with impeccable honor, Senator James I. Gibson, who had served as the Senate Democratic Majority Leader for many years. You continued this tradition throughout your tenure by honoring many other past Senators who were also recognized for their outstanding service to the Senate of the Nevada Legislature. And, now, the tribute is paid to you for which you so richly deserve.

While I am unable to be there to witness this wonderful celebration, my family and I send our sincere congratulations on your Induction into the Senate Hall of Fame. We will forever be grateful and blessed by your awesome dedication and service to the Senate and to the people of the State of Nevada, but, most especially, for your special friendship.

With my warmest regards,

Janice L. Thomas

(Former Secretary of the Senate, 1981-2000)

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Horsford, McGinness, Breeden, Brower, Cegavske, Copening, Denis, Gustavson, Halseth, Hardy, Kieckhefer, Kihuen, Lee, Leslie, Manendo, Parks, Rhoads, Roberson, Schneider, Settlemeyer and Wiener:

Senate Resolution No. 4—Inducting William J. Raggio into the Senate Hall of Fame.

WHEREAS, The Senate of the Legislature of the State of Nevada has established a Senate Hall of Fame whose members are selected by leadership from those past Senators who have served with distinction and who have made exemplary contributions to the State of Nevada; and

WHEREAS, William J. Raggio, a fourth generation Nevadan, was born October 30, 1926, in Reno, Nevada, and was educated in the Reno public schools; and

WHEREAS, During World War II, William entered Naval Officer Candidate training, and later was commissioned as a Second Lieutenant in the United States Marine Corps; after his military service, he received his B.A. from the University of Nevada, Reno, before going on to receive his J.D. from the University of California; and

WHEREAS, William J. Raggio was elected District Attorney of Washoe County in 1958, an office he held until 1970; while District Attorney, he was named "Outstanding Prosecutor in the United States" and elected President of the National District Attorneys Association; and

WHEREAS, William J. Raggio was first elected to the Nevada Senate from Washoe County in November 1972 and served over 38 years until January 2011, having the longest Senate service in the history of Nevada, including 19 regular sessions and 13 special sessions; Senator Raggio served as Senate Majority Floor Leader in 1987-1989 and 1993-2008, making him the longest-serving Senate Majority Floor Leader in Nevada history; he also served as Senate Minority Floor Leader for 6 regular and 4 special sessions; and

WHEREAS, Senator Raggio was Chairman of the Senate Committee on Finance in the regular sessions of 1987-1989 and 1993-2007, and served as either Chairman or Vice Chairman of the Interim Finance Committee during that same time period; and Senator Raggio served as Chairman of the Legislative Committee on Education in 1997-1998, 2001-2002, and 2005-2006; and

WHEREAS, Among his legislative accomplishments, Senator Raggio sponsored Nevada's Education Reform Act, perhaps the most important education measure in State history; established the Nevada Economic Forum to provide nonpartisan, technical projections of state revenue; authored legislation providing comprehensive regional planning in Washoe County; and was honored as the "Father of the Airport Authority" in recognition of his legislation creating that entity; and

WHEREAS, Senator Raggio received numerous national awards and honors over the years for his legislative service, including the elected National Chairman of the American Legislative Exchange Council (ALEC) in 1993; the Lifetime Achievement Award of the National Italian American Foundation in 1999; and ALEC honoring him by establishing the William J. Raggio Excellence in Leadership and Outstanding Service Award; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That William J. Raggio, a leader among leaders and most dedicated son to his native Nevada, is hereby inducted into the Senate Hall of Fame of the Legislature of the State of Nevada.

Senator Horsford moved the adoption of the resolution.

Remarks by Senators Horsford, McGinness, Cegavske, Leslie, Denis, Breeden, Hardy, Brower, Parks, Wiener, Schneider, Settlemeyer, Lee and President Krollicki.

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

SENATOR HORSFORD:

I rise in support of this resolution inducting Senator Bill Raggio into the Senate Hall of Fame. Senator Bill Raggio represented Washoe County in the Senate for over 38 years, the longest Senate service in the history of the great State of Nevada. Most of us in the Senate today served as members of the Legislature with former Senator Raggio. I had the privilege to serve in this Chamber with Senator Raggio for three regular sessions and six special sessions. Senator Raggio, as the resolution has indicated, is a fourth generation Nevadan. He is a native and resident of Reno. His long career in public service is unparalleled.

On a personal note, Mr. President, Senator Raggio has always been one of the greatest figures in political life for many of us coming up in Nevada politics. I can recall coming to this

legislative process as an intern. I was afraid of Senator Raggio and avoided coming into the Senate Chamber because in many ways I was awestruck by his presence, his knowledge, and command of the process and his ability to get \$20 out of everyone he met. Over the years, I have had the profound opportunity to get to know the man, Bill Raggio, not just the State Senator or public servant. He has been a loving father and parent. He has been a phenomenal community leader in many respects, not only to the community of Reno or Washoe County but as a community leader to the State of Nevada and our country. He has been a great spouse and a wonderful partner. He adores his wife.

I had the pleasure many years ago in a previous role of helping to honor Senator Raggio. It was during that process when I had the opportunity to interview people who worked with Senator Raggio, not just in his Senate capacity, but in his role as a lawyer, as a community leader and as a resident of our great State. Without question, the people that I spoke to and asked about, the essence of Senator Bill Raggio, it all came back to the same word: Statesman.

He is a true statesman. He loves his party, but he puts the State of Nevada before his party. He is a true statesman in that he has always looked out for the future of our State, providing great vision and leadership during difficult times. He is a great statesman because he has been an example for those of us who now stand on your shoulders, Senator, to carry the torch of what it truly means to be a statesman in the State of Nevada.

Today is one small way for us, as a body, to honor Senator Raggio in inducting him into the Senate Hall of Fame. I wish there were some greater honor, some larger recognition that we could bestow upon you because of everything you have bestowed upon the great State of Nevada. On behalf of this Chamber, on behalf of myself and my family and on behalf of the citizens of the State of Nevada, it is my honor to support Senate Resolution No. 4 and your induction into the Hall of Fame. You are truly Nevada's statesman.

PRESIDENT KROLICKI:

One of the great privileges of my public service life has been to be Lieutenant Governor, being a part of this legislative process and to serve with you.

SENATOR MCGINNESS:

I rise today to honor a Nevadan and a colleague who has dedicated his life to improving the lives of all Nevadans.

The words in this resolution can never capture all of Senator Raggio's public service. He has always been an advocate for public education, public safety, and making certain that our State provided the services to those who needed it most.

The 38 years he has spent serving in the Senate is not the extent of Senator Raggio's public service. He started out as the Washoe County District Attorney for 18 years fighting crime and corruption with burning passion, ultimately making northern Nevada a safer place.

Senator Raggio's unique knowledge of the State budget and the legislative process in Carson City will never again be equaled. I congratulate Senator Raggio on his induction into the Senate Hall of Fame and I thank you for your devotion to the great State of Nevada. Thank you, very much.

SENATOR CEGAVSKE:

Thank you, Mr. President. It is so nice to see Senator Raggio here, today. I remember the first time I went to dinner with you in Washington D.C. It was when you got my \$20. The trip was just before the terrorist attacks on the Twin Towers, we were there for a meeting with your daughter and granddaughter. We had a wonderful time and it will always be a fond memory for me. I will remind you about the three blondes and am sorry the other two are not here today. All the stories are kept behind the caucus doors.

It is a privilege to honor you, today.

SENATOR LESLIE:

Thank you, Mr. President. I wish to offer my thanks to Senator Raggio for terrifying me during my 12 years in the Assembly. We often had bills in the Assembly that Senator Raggio did not like very much. We would take turns fighting over who would take a bill to the Senate Committee on Finance for hearing. Several times, I lost that fight and the Speaker would tell me

it was my turn to go to the Committee. That was the worst assignment you could draw in the Assembly. He yelled at me a few times, but I never took it personally, because I knew he did not take it personally. Outside of the meeting, Senator Raggio was the most gracious legislator and he taught us so much. Because of term limits, I am the senior Washoe County Legislator. I am in my first term in the Senate. We have a tradition in the Washoe County delegation, that the senior member calls the meetings. Senator Raggio would have someone call the office saying there was a meeting at 12:00 and be there. There were no excuses; you went. If you did not show up, he would send the Legislative Police to find you to escort you to the meeting. I am nicer, but people do not show up to my meetings the way they did for his.

The first time I got a handwritten note from Senator Raggio, it was in his distinctive handwriting. It was addressed to "Shelia." Though I opened his note with trepidation, I knew it was because he wanted me to do something. He always signed it in that beautiful, flourishing handwriting that said "Bill." We used to discuss that in the Assembly. "I got a note from "Bill" today." We just could not think of him as "Bill." He will always be Senator Raggio. As a member of the Washoe County delegation, I want to thank Senator Raggio for representing our interests so well for so long. We truly admire his work, and we admire his family for putting up with him. There is no one who has represented Washoe County the way Senator Raggio has. I am grateful for his service on a deeply personal level.

SENATOR DENIS:

Thank you, Mr. President. Thank you, Senator Raggio for your service. I did not know that we shared the honor of being Eagle Scouts. I knew there was something special about him. I remember my first Interim Finance Committee meeting as a freshman. Senator Raggio asked me for that \$20. I was just a new kid. I was trying to be helpful and gave it to him even though I think it was all I had. It was an honor serving with him.

SENATOR BREEDEN:

Thank you, Mr. President. I am honored to spend this special day with you. Congratulations.

SENATOR HARDY:

Having never been asked, I feel left out, so Senator Raggio, I have your \$20. Please pass that to him, thank you.

If I could describe Bill with one word, it would be gracious. He accepted that \$20 graciously. I appreciate all of the wisdom he has shared with me and with us.

SENATOR BROWER:

Thank you, Mr. President. I am humbled beyond words to be sitting in this seat. I think Senator Raggio knows how I feel. Your presence is felt in this Chamber every day. We are better for it.

SENATOR PARKS:

Thank you, Mr. President. I wish to express my appreciation to Senator Raggio to congratulate him on being inducted into the Senate Hall of Fame. Long before I came to the Legislature, I served in a number of positions that required me to come to the Legislature to testify on bills. Several of the bills were presented before the Senate Committee on Finance. I was shaking in my boots as I presented my testimony. I also wish to give Senator Raggio my \$20. Please pass it down. Once he asked for that \$20 then withdrew his request. Now I want him to have it. Congratulations on this wonderful award.

SENATOR WIENER:

Thank you, Mr. President. As I listen to the stories today, I remember my first day in the building. As I passed one of the Legislative Police, he said, "Good morning, Senator." I told him to call me Valerie. He told me, "Not in this building." That was the respect we have for each other.

Senator Raggio came to my very small closet of an office, the first few weeks of Session, and told me it was a tough campaign, now it is over, now we work together. I will never forget that, because that is what this is about. When we came into the first session to be sworn in, none of my supporters were able to attend because the weather was bad. I sat in the third row by myself,

but just before we started, they were able to arrive on time led by my aunt. Senator Raggio used to work with my aunt and my dad and Senator Raggio were law partners. Before I knew you, I knew of you. When he stood to welcome me to the Floor, he spoke to my aunt first because of their friendship. When I saw the love of the years they shared, it spilled over to me too. I appreciate the relationship you had with my family. I appreciate all the love you have shared with your Nevada family and what it is you have brought to the Senate, what it is you have left with the Senate that can never be matched and never be replaced for it like you and the work you have done, is permanent and we are better for it.

Thank you for being a part of it and for leading us for all of these years, for stamping that Raggio mark on the history and the future. I appreciate you and I thank you.

SENATOR SCHNEIDER:

Thank you, Mr. President. I am the only one in this building Senator Raggio did not shake the \$20 out of. I am proud of that. I served with him for 20 years and refused to give him the \$20. I knew he would not pass my bills anyway.

Years ago when I was a young Senator who just moved here from the Assembly, I had a bill on construction defects. I received a letter from the Ethics Commission. Someone made an ethics complaint against me because I introduced a bill on construction defects. On Monday morning, I told Senator Townsend who was Chair of the Senate Committee on Commerce and Labor what had happened. An hour later, Senator Raggio requested I come to his office. I thought I was in trouble. He called in Brenda Erdoes and Jan Needham and insisted they prepare a case for me. He said if you need to hire outside counsel, then hire them. He said that we would defend this all of the way. He stated that this would chill the legislative process if we allow this to continue. I was thankful he would stand up for a minority member like me. He stood up for the body of the Senate. Thank you.

SENATOR SETTELMAYER:

Thank you, Mr. President. It is an honor to say some kind words about such a kind man. His service to the State and to the nation can never be overlooked. Mr. Hettrick said once to me that it is about honoring this institution, to leave the fights at the door when you walk through and to have thoughtful discussions and to try to do what is best for the State overall. The first time I ran, we talked at Senator Jacobsen's funeral. I remember what you said to me then. You said, "The man who showed me around the first time was Senator Settelmeyer." He was my great uncle, Fred. It is such an honor to be here today. I would like to give you an 1865 dollar. It might be worth something someday soon.

SENATOR LEE:

Thank you, Mr. President. I understand that the highest honor you received was the Eagle Scout Award and I feel the same way. To do a good deed daily, that is what we learn from scouting. When I was a freshman, I was following Dina Titus' leadership. We were getting ready for a bill and Senator Raggio walked in and looked at me and he said, "I am not fooling around, you get your caucus in order right now." He walked away and I thought, "What do I do?" I had no idea how to respond to that. When I told Dina, she said, "Oh, do not listen to him."

But I am mindful that I am now sitting at the desk that you sat at last session. I think we should put a brass plate on this desk, recognizing this desk as your desk. In the future, anyone who sits here will remember Bill Raggio. Thank you, Senator Raggio.

Senator Horsford requested that the remarks of former Senator William J. Raggio be entered in the Journal.

FORMER SENATOR WILLIAM J. RAGGIO:

Thank you, you know I am not used to using these microphones. I would like to say I am overwhelmed. At first, I did not know how to dress for this occasion, so asked former Senator Townsend and he suggested one of his suits, then former Senator Coffin offered one of his sport coats, so I opted for Senator Townsend's suit.

I am overwhelmed by what you have said and what is in this resolution. If I had known you were going to say all of these nice things, I would have retired earlier. This is a significant honor

that I truly appreciate. I want to thank my family for all of the years they have supported me during this process. When I first came to the Senate in 1972, I never thought I would serve this long in this body. I never thought I would serve ten consecutive terms as a Senator in this Chamber. Looking back, I realize almost half of my life has been spent as a member of the Senate. I have appreciated the privilege and opportunity that I have had during those years to work with so many distinguished colleagues, some of you here, some who no longer serve here, and many who have passed on. There are wonderful memories. There were good times, tough times and fun times. I have always appreciated that we have such a wonderful staff to work with in this legislative process, dedicated individuals who cannot be thanked enough for making all of us who serve as legislators look good through this difficult process. We had tough times, serious issues that we have had to deal with. Obviously, we have often disagreed, but in the end, I always felt that the final result was in the best interest of the State of Nevada. I was privileged to be part of that process.

I do not have the words to express how much I appreciate this honor. The memories will still go on and on. I have always respected the dignity and the decorum of this Senate Chamber and I will continue to do so. I thank all of you for this recognition and the honor you have bestowed upon me. I have received many plaques and many honors over the years. I have often said that earning my Eagle Scout Badge as a Boy Scout was my highest honor, but this ranks right up there. I am grateful to you all for honoring me in this way.

Thank you, so much.

Resolution adopted 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 12:07 p.m.

SENATE IN SESSION

At 2:35 p.m.

Senator Parks, Chair of Committee on Legislative Operations and Elections, presiding:

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 156, 217, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Education, to which was referred Senate Bills Nos. 230, 276, 318, 449, 451, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MO DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 565, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 260, 261, 377, 384, 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 53, 245, 340, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 18, 147, 464, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 66, 200, 201, 218, 257, 283, 347, 356, 405, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Natural Resources, to which was referred Senate Joint Resolution No. 12, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK A. MANENDO, *Chair*

Mr. President:

Your Select Committee on Economic Growth and Employment, to which was referred Senate Bill No. 64, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RUBEN J. KIHUEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 18, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 220; Assembly Bills Nos. 19, 143, 194, 211, 271, 296, 355, 456, 459, 504, 523, 524, 533, 556.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 12, 20, 25, 26, 32, 36, 55, 82, 91, 102, 109, 111, 121, 125, 138, 142, 170, 232, 233, 261, 295, 309, 313, 319, 348, 395, 478.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Joint Resolutions Nos. 6, 7.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, that the reading of Assembly Bill No. 565 be considered to have fulfilled the requirement for second reading, and that the bill be declared an emergency measure under the Constitution and placed at the top of third reading for final passage on this legislative day.

Remarks by Senator Horsford.

Motion carried unanimously.

Senator Wiener moved that Senate Bill No. 140 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 180, 368 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Joint Resolution No. 6.

Senator Wiener moved that the resolution be referred to the Committee on Transportation.

Motion carried.

Assembly Joint Resolution No. 7.

Senator Wiener moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

REMARKS FROM THE FLOOR

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

Mr. President, in the interest of time, I move the Secretary read through all of the bill summaries noting the appropriate committee referrals. Once that has been completed, Senator Wiener will make a motion that all bills previously read be referred to the committees as indicated all in one motion rather than have a senator stand and move their own bills individually. If a senator has an objection to a referral, it will be addressed after the reading of all summaries has been completed.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 12.

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

Motion carried.

Assembly Bill No. 19.

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

Motion carried.

Assembly Bill No. 20.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 25.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 26.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 32.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 36.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 55.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 82.

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

Motion carried.

Assembly Bill No. 91.

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

Motion carried.

Assembly Bill No. 102.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 109.

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

Motion carried.

Assembly Bill No. 111.

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

Motion carried.

Assembly Bill No. 121.

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

Motion carried.

Assembly Bill No. 125.

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

Motion carried.

Assembly Bill No. 138.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 142.

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

Motion carried.

Assembly Bill No. 143.

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

Motion carried.

Assembly Bill No. 170.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 194.

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

Motion carried.

Assembly Bill No. 211.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 232.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 233.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 261.

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

Motion carried.

Assembly Bill No. 271.

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

Motion carried.

Assembly Bill No. 295.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 296.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 309.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 313.

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

Motion carried.

Assembly Bill No. 319.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 348.

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

Motion carried.

Assembly Bill No. 355.

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

Motion carried.

Assembly Bill No. 395.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 456.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 459.

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

Motion carried.

Assembly Bill No. 478.

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

Motion carried.

Assembly Bill No. 504.

Senator Wiener moved that the bill be referred to the Committee on Revenue.

Motion carried.

Assembly Bill No. 523.

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

Motion carried.

Assembly Bill No. 524.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 533.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 556.

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

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 565.

Bill read third time.

Remarks by Senator Horsford.

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

For the current fiscal year, Assembly Bill No. 565 delays the statutory deadline for school districts to notify employees concerning reemployment status for the 2011-12 school year from the current date of May 1, 2011 to no later than May 16, 2011. The legislation also extends the date by which the employee must notify the district of acceptance of the 2011-12 contract from the current date of May 10, 2011, to May 25, 2011. The failure of an employee to notify the school district which employs him of the employee's acceptance of the 2011-12 contract on or before May 25, 2011, is conclusive evidence of the employee's rejection of the contract.

This act becomes effective upon passage and approval and expires on July 1, 2011.

Roll call on Assembly Bill No. 565:

YEAS—19.

NAYS—None.

EXCUSED—Rhoads, Schneider—2.

Assembly Bill No. 565 having received a constitutional majority, Mr. Chair declared it passed.

Senator Horsford moved that all necessary rules be suspended and that Assembly Bill No. 565 be immediately transmitted to the Assembly.

Motion carried unanimously.

Senator Horsford moved that Senate Bills Nos. 10, 24, 26, 40, 57, 81, 110, 112, 127, 152, 159, 187, 194, 196, 198, 209, 213, 251, 256, 262, 268, 277, 284, 304, 309, 361, 375, 376, 392, 393, 402, 403, 417, 432, 488, 495; Senate Joint Resolution No. 8; Assembly Bills Nos. 30, 144 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Denis moved that Senate Bills Nos. 449, 451 be re-referred to the Committee on Finance.

Motion carried.

Senator Horsford moved that Senate Bill No. 75 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 15.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 11.

"SUMMARY—Requires the Department of Motor Vehicles to cancel the driver's license of a person convicted of driving under the influence of intoxicating liquor or a controlled substance under certain circumstances. (BDR 43-487)"

"AN ACT relating to the Department of Motor Vehicles; requiring the Department to cancel the driver's license of a person convicted of driving under the influence of intoxicating liquor or a controlled substance under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, in addition to any other penalty provided by law, a person convicted of driving under the influence of intoxicating liquor or a controlled substance is liable to the State for a civil penalty of \$35, payable to the Department of Motor Vehicles. The Department is prohibited from issuing any license to drive a motor vehicle to a person convicted of such a violation until the civil penalty is paid. (NRS 484C.500) This bill requires the Department to cancel the license of a person whose license to drive a motor

vehicle has already been reinstated, if the Department receives notice after reinstating the license that the person has been convicted of driving under the influence of intoxicating liquor or a controlled substance, unless the civil penalty is paid within 30 days after the ~~receipt of such~~ **Department provides notice ~~to~~ to the person that the license will be cancelled unless the civil penalty is paid.**

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

Section 1. NRS 484C.500 is hereby amended to read as follows:

484C.500 1. In addition to any other penalty provided by law, a person convicted of a violation of NRS 484C.110 or 484C.120 is liable to the State for a civil penalty of \$35, payable to the Department.

2. The Department shall not issue any license to drive a motor vehicle to a person convicted of a violation of NRS 484C.110 or 484C.120 until the civil penalty is paid.

3. If the Department receives notice that a person whose license to drive a motor vehicle has already been reinstated has been subsequently convicted of a violation of NRS 484C.110 or 484C.120, the Department shall cancel the license unless the civil penalty is paid within 30 days after the date on which the Department ~~receives that~~ provides notice ~~to~~ to the person that the license will be cancelled unless the civil penalty is paid.

4. Any money received by the Department pursuant to subsection 1 must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

Sec. 2. This act becomes effective on July 1, 2011.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 11 to Senate Bill No. 15 requires Nevada's Department of Motor Vehicles to provide notice to the convicted person who has been convicted of driving under the influence of intoxicating liquor or controlled substance that his or her license will be cancelled unless the required civil penalty is paid.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 38.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 292.

"SUMMARY—Revises provisions governing apportionments to school districts, charter schools and university schools for profoundly gifted pupils. (BDR 34-507)"

"AN ACT relating to education; authorizing the Superintendent of Public Instruction to deduct from, withhold from or otherwise make adjustments to

the quarterly apportionments paid to a school district, charter school or university school for profoundly gifted pupils under certain circumstances; revising provisions governing the calculation of apportionments which take into account the effect of the declining enrollment of pupils in a school district or charter school; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Superintendent of Public Instruction apportions, on a quarterly basis, the State Distributive School Account in the State General Fund among the school districts, charter schools and university schools for profoundly gifted pupils. (NRS 387.124) **Section 2** of this bill authorizes the Superintendent to deduct from a quarterly apportionment if a school district, charter school or university school for profoundly gifted pupils fails to repay certain amounts due the Department of Education or pays a claim determined to be unearned, illegal or unreasonably excessive. The amount deducted must correspond to the amount due or the amount of the claim. **Section 2** also authorizes the Superintendent to withhold the full amount of a quarterly apportionment or a portion thereof if a school district, charter school or university school for profoundly gifted pupils fails to submit a report or other information that is required to be submitted to the Superintendent, State Board of Education or Department pursuant to a statute. ~~for regulation.~~ If the required report or information is subsequently provided, the amount withheld must be immediately paid.

Under existing law, the sponsor of a charter school may submit a request to the charter school for reimbursement of the administrative costs associated with the sponsorship for each school quarter. (NRS 386.570) If the charter school does not pay the reimbursement, **section 2** of this bill authorizes the Superintendent to withhold the amount due from the quarterly apportionment of the charter school and transfer that amount to the sponsor as payment on the claim. Finally, **section 2** authorizes an appeal to the State Board of a decision of the Superintendent to deduct or withhold from a quarterly apportionment.

Under existing law, the amount of the quarterly apportionments paid to a school district or charter school is based upon the enrollment of pupils. If a school district or charter school experiences declining enrollment in the current school year, the higher enrollment number from a preceding school year is used to calculate the quarterly apportionment, which is commonly referred to as the "hold harmless" provision. (NRS 387.1233) **Section 3** of this bill provides that the enrollment number from the current school year must be used if the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils to receive the higher apportionment.

Section 5 of this bill allows for adjustments to the quarterly apportionments if the Department determines as a result of an audit that a pupil is not properly enrolled in or attending a public school.

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

Section 1. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school quarter if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection ~~{9,}~~ **10**, upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection ~~{9, the}~~ **10**:

(a) The charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary ~~{,}~~ ; and

(b) The Superintendent of Public Instruction may, pursuant to section 2 of this act, deduct the amount due the sponsor from the quarterly apportionment otherwise payable to the charter school pursuant to NRS 387.124 and transfer that amount to the sponsor.

4. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to

~~{this}~~ subsection 3 for administrative expenses in 1 school year must not exceed:

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

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

~~{4-}~~ 5. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

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

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

~~{5-}~~ 6. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

~~{6-}~~ 7. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

~~{7-}~~ 8. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with

applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~{8.}~~ **9.** If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~{9.}~~ **10.** The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.

Sec. 2. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Superintendent of Public Instruction may deduct from an apportionment otherwise payable to a school district, charter school or university school for profoundly gifted pupils pursuant to NRS 387.124 if the school district, charter school or university school:*

(a) *Fails to repay an amount due pursuant to subsection 5 of NRS 387.1243. The amount of the deduction from the quarterly apportionment must correspond to the amount due.*

(b) *Fails to repay an amount due the Department as a result of a determination that an expenditure was made which violates the terms of a grant administered by the Department. The amount of the deduction from the quarterly apportionment must correspond to the amount due.*

(c) *Pays a claim determined to be unearned, illegal or unreasonably excessive as a result of an investigation conducted pursuant to NRS 385.315. The amount of the deduction from the quarterly apportionment must correspond to the amount of the claim which is determined to be unearned, illegal or unreasonably excessive.*

↪ *More than one deduction from a quarterly apportionment otherwise payable to a school district, charter school or university school for profoundly gifted pupils may be made pursuant to this subsection if grounds exist for each such deduction.*

2. *In addition to a deduction from an apportionment to a charter school authorized by subsection 1, the Superintendent of Public Instruction may deduct from an apportionment otherwise payable to the charter school pursuant to NRS 387.124 if the charter school fails to pay an amount due*

the sponsor of the charter school for the administrative costs associated with sponsorship, as required by NRS 386.570, including, without limitation, failure to make delayed payments approved by the Superintendent pursuant to subsection 10 of NRS 386.570. The amount of the deduction from the quarterly apportionment must correspond to the amount of the administrative costs which have not been paid. The Department shall transfer the amount deducted to the sponsor of the charter school as payment on the claim.

3. The Superintendent of Public Instruction may authorize the withholding of the entire amount of an apportionment otherwise payable to a school district, charter school or university school for profoundly gifted pupils pursuant to NRS 387.124, or a portion thereof, if the school district, charter school or university school for profoundly gifted pupils fails to submit a report or other information that is required to be submitted to the Superintendent, State Board or Department pursuant to a statute ~~, for~~ ~~regulation~~. If a charter school fails to submit a report or other information that is required to be submitted to the Superintendent, State Board or Department through the sponsor of the charter school pursuant to a statute, the Superintendent may only authorize the withholding of the apportionment otherwise payable to the charter school and may not authorize the withholding of the apportionment otherwise payable to the sponsor of the charter school. Before authorizing ~~such~~ a withholding ~~for~~ pursuant to this subsection, the Superintendent of Public Instruction shall provide notice to the school district, charter school or university school for profoundly gifted pupils of the report or other information that is due and provide the school district, charter school or university school with an opportunity to comply with the statute ~~, for~~ ~~regulation~~. Any amount withheld pursuant to this subsection must be accounted for separately in the State Distributive School Account, does not revert to the State General Fund at the end of a fiscal year and must be carried forward to the next fiscal year.

4. If, after an amount is withheld pursuant to subsection 3, the school district, charter school or university school for profoundly gifted pupils subsequently submits the report or other information required by a statute ~~for~~ ~~regulation~~ for which the withholding was made, the Superintendent of Public Instruction shall immediately authorize the payment of the amount withheld to the school district, charter school or university school for profoundly gifted pupils.

5. A school district, charter school or university school for profoundly gifted pupils may appeal to the State Board a decision of the Superintendent of Public Instruction to deduct or withhold from a quarterly apportionment pursuant to this section. The Secretary of the State Board shall place the subject of the appeal on the agenda of the next meeting for consideration by the State Board.

Sec. 3. NRS 387.1233 is hereby amended to read as follows:

387.1233 1. Except as otherwise provided in subsection 2, basic support of each school district must be computed by:

(a) Multiplying the basic support guarantee per pupil established for that school district for that school year by the sum of:

(1) Six-tenths the count of pupils enrolled in the kindergarten department on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year.

(2) The count of pupils enrolled in grades 1 to 12, inclusive, on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

(3) The count of pupils not included under subparagraph (1) or (2) who are enrolled full-time in a program of distance education provided by that school district or a charter school located within that school district on the last day of the first school month of the school district for the school year.

(4) The count of pupils who reside in the county and are enrolled:

(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(5) The count of pupils not included under subparagraph (1), (2), (3) or (4), who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive, on the last day of the first school month of the school district for the school year, excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.490 on that day.

(6) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.490 on the last day of the first school month of the school district for the school year.

(7) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570 on the last day of the first school month of the school district for the school year.

(8) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 4 of NRS 386.560, subsection 5 of NRS 386.580 or subsection 3 of NRS 392.070, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(b) Multiplying the number of special education program units maintained and operated by the amount per program established for that school year.

(c) Adding the amounts computed in paragraphs (a) and (b).

2. ~~¶¶~~ *Except as otherwise provided in subsection 4, if* the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the largest number from among the immediately preceding 2 school years must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

3. ~~¶¶~~ *Except as otherwise provided in subsection 4, if* the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is more than 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the larger enrollment number from the current year or the immediately preceding school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

4. *If the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils in the school district or charter school to receive a higher apportionment pursuant to subsection 2 or 3, including, without limitation, by eliminating grades or moving into smaller facilities, the enrollment number from the current school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.*

5. Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.

~~{5-}~~ 6. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

~~{6-}~~ 7. Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section.

Sec. 4. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. ~~{The}~~ ***Except as otherwise provided in section 2 of this act, the*** apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3 ~~{-}~~ ***and section 2 of this act,*** the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. ~~{The}~~ ***Except as otherwise provided in section 2 of this act, the*** apportionment to a charter school that is sponsored by the State Board or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds

attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. ~~{H}~~ *Except as otherwise provided in section 2 of this act, in* addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. ~~{The}~~ *Except as otherwise provided in section 2 of this act, the* apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of

reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, the State Controller may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 5. NRS 387.1243 is hereby amended to read as follows:

387.1243 1. The first apportionment based on an estimated number of pupils and special education program units and succeeding apportionments are subject to adjustment from time to time as the need therefor may appear ~~to~~ ***, including, without limitation, an adjustment made for a pupil who is not properly enrolled in or attending a public school, as determined through an independent audit or other examination conducted pursuant to NRS 387.126 or through an annual audit of the count of pupils conducted pursuant to subsection 1 of NRS 387.304.***

2. The apportionments to a school district may be adjusted during a fiscal year by the Department of Education, upon approval by the State Board of Examiners and the Interim Finance Committee, if the Department of Taxation and the county assessor in the county in which the school district is located certify to the Department of Education that the school district will not receive the tax levied pursuant to subsection 1 of NRS 387.195 on property of the Federal Government located within the county if:

(a) The leasehold interest, possessory interest, beneficial interest or beneficial use of the property is subject to taxation pursuant to NRS 361.157 and 361.159 and one or more lessees or users of the property are delinquent in paying the tax; and

(b) The total amount of tax owed but not paid for the fiscal year by any such lessees and users is at least 5 percent of the proceeds that the school district would have received from the tax levied pursuant to subsection 1 of NRS 387.195.

➤ If a lessee or user pays the tax owed after the school district's apportionment has been increased in accordance with the provisions of this subsection to compensate for the tax owed, the school district shall repay to the State Distributive School Account in the State General Fund an amount equal to the tax received from the lessee or user for the year in which the school district received an increased apportionment, not to exceed the increase in apportionments made to the school district pursuant to this subsection.

3. On or before August 1 of each year, the board of trustees of a school district shall provide to the Department, in a format prescribed by the Department, the count of pupils calculated pursuant to subparagraph (8) of

paragraph (a) of subsection 1 of NRS 387.1233 who completed at least one semester during the immediately preceding school year. The count of pupils submitted to the Department must be included in the final adjustment computed pursuant to subsection 4.

4. A final adjustment for each school district, charter school and university school for profoundly gifted pupils must be computed as soon as practicable following the close of the school year, but not later than August 25. The final computation must be based upon the actual counts of pupils required to be made for the computation of basic support and the limits upon the support of special education programs, except that for any year when the total enrollment of pupils and children in a school district, a charter school located within the school district or a university school for profoundly gifted pupils located within the school district described in paragraphs (a), (b), (c) and (e) of subsection 1 of NRS 387.123 is greater on the last day of any school month of the school district after the second school month of the school district and the increase in enrollment shows at least:

(a) A 3-percent gain, basic support as computed from first-month enrollment for the school district, charter school or university school for profoundly gifted pupils must be increased by 2 percent.

(b) A 6-percent gain, basic support as computed from first-month enrollment for the school district, charter school or university school for profoundly gifted pupils must be increased by an additional 2 percent.

5. If the final computation of apportionment for any school district, charter school or university school for profoundly gifted pupils exceeds the actual amount paid to the school district, charter school or university school for profoundly gifted pupils during the school year, the additional amount due must be paid before September 1. If the final computation of apportionment for any school district, charter school or university school for profoundly gifted pupils is less than the actual amount paid to the school district, charter school or university school for profoundly gifted pupils during the school year, the difference must be repaid to the State Distributive School Account in the State General Fund by the school district, charter school or university school for profoundly gifted pupils before September 25.

Sec. 6. NRS 387.185 is hereby amended to read as follows:

387.185 1. Except as otherwise provided in subsection 2 and NRS 387.528, *unless the Superintendent of Public Instruction authorizes a withholding pursuant to section 2 of this act*, all school money due each county school district must be paid over by the State Treasurer to the county treasurer on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the county treasurer may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124.

2. Except as otherwise provided in NRS 387.528, *unless the Superintendent of Public Instruction authorizes a withholding pursuant to section 2 of this act*, if the board of trustees of a school district establishes

and administers a separate account pursuant to the provisions of NRS 354.603, all school money due that school district must be paid over by the State Treasurer to the school district on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the school district may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124.

3. No county school district may receive any portion of the public school money unless that school district has complied with the provisions of this title and regulations adopted pursuant thereto.

4. Except as otherwise provided in this subsection, ***unless the Superintendent of Public Instruction authorizes a withholding pursuant to section 2 of this act***, all school money due each charter school must be paid over by the State Treasurer to the governing body of the charter school on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the governing body may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124. If the Superintendent of Public Instruction has approved, pursuant to subsection 5 of NRS 387.124, a request for payment of an apportionment 30 days before the apportionment is otherwise required to be made, the money due to the charter school must be paid by the State Treasurer to the governing body of the charter school on July 1, October 1, January 1 or April 1, as applicable.

5. Except as otherwise provided in this subsection, ***unless the Superintendent of Public Instruction authorizes a withholding pursuant to section 2 of this act***, all school money due each university school for profoundly gifted pupils must be paid over by the State Treasurer to the governing body of the university school on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the governing body may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124. If the Superintendent of Public Instruction has approved, pursuant to subsection 6 of NRS 387.124, a request for payment of an apportionment 30 days before the apportionment is otherwise required to be made, the money due to the university school must be paid by the State Treasurer to the governing body of the university school on July 1, October 1, January 1 or April 1, as applicable.

Sec. 7. This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 292 to Senate Bill No. 38 clarifies that any withholding of an apportionment authorized under the provisions of the bill that are the result of a charter school failing to submit a report through the sponsor, would not apply to regulatory matters and would only be for the amount due the charter school itself, not that due to the sponsor of the charter school.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 106.

Bill read second time and ordered to third reading.

Senate Bill No. 130.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 98.

"SUMMARY—Revises certain provisions governing ~~the titling and registration of~~ off-highway vehicles. (BDR S-210)"

"AN ACT relating to off-highway vehicles; **authorizing the Department of Motor Vehicles to release certain personal information relating to off-highway vehicles**; revising the prospective terms of the members of the Commission on Off-Highway Vehicles; revising the effective date of certain other provisions governing the titling and registration of off-highway vehicles; **repealing the prospective transfer of authority to approve the designation of portions of state highways for off-highway vehicle use from the Department of Transportation to the Department of Motor Vehicles**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Department of Motor Vehicles to release certain personal information relating to the driver's license, identification card, or title or registration of a vehicle of a person and to charge and collect a fee from a person who makes use of files and records of the Department or its various divisions for a private purpose. (NRS 481.063) Section 1 of this bill authorizes the Department to release such personal information relating to off-highway vehicles by clarifying that for purposes of those actions, the term "vehicle" includes an off-highway vehicle.

In 2009, the provisions of Senate Bill No. 394 were enacted, which provide for the issuance of a certificate of title and registration for an off-highway vehicle by the Department ~~of Motor Vehicles.~~ (Chapter 504, Statutes of Nevada 2009, pp. 3076-3106) Those provisions also: (1) create the Revolving Account for the Assistance of the Department, into which must be deposited all money received by the Department from the Federal Government or any other source to assist the Department in carrying out the provisions of that bill relating to the titling and registration of off-highway vehicles; (2) create the Commission on Off-Highway Vehicles, consisting of 11 members appointed by the Governor; **(3) transfer responsibility from the Department of Transportation to the Department of Motor Vehicles to approve the designation of any portion of a state highway as permissible for off-highway vehicle use;** and ~~and (3) (4)~~ require the Interim Finance Committee, after determining that at least \$500,000 is available in

the Revolving Account for the Assistance of the Department, to notify the Department of that fact. (Chapter 504, Statutes of Nevada 2009, pp. 3082-85, 3105) The following provisions of that bill became effective upon passage and approval: (1) the provisions creating the Revolving Account for the Assistance of the Department; (2) the provisions governing the appointment of the members of the Commission on Off-Highway Vehicles by the Governor; and (3) the provisions authorizing the Department to adopt regulations to carry out that bill. The remaining provisions of that bill will become effective on July 1, 2011, or 1 year after the date the Interim Finance Committee issues the notice concerning the Revolving Account for the Assistance of the Department, whichever occurs first. If the Interim Finance Committee fails to issue that notice before July 1, 2011, the provisions of that bill expire by limitation on that date. (Chapter 504, Statutes of Nevada 2009, p. 3105)

Section ~~11~~ 2 of this bill requires the Governor, as soon as practicable after July 1, 2011, to appoint: (1) four members of the Commission on Off-Highway Vehicles to terms that expire on January 1, 2013; (2) four members of the Commission to terms that expire on January 1, 2014; and (3) three members of the Commission to terms that expire on January 1, 2015. **Section ~~12~~ 3** of this bill extends the effective date for most of the remaining provisions of Senate Bill No. 394 by ~~changing July 1, 2011, to~~ **making those provisions effective on July 1, 2012 ~~11~~, or 30 days after the Department of Motor Vehicles publishes on its website a statement indicating that it has completed the preparatory administrative tasks that are necessary to carry out the provisions of that bill, whichever occurs first.**

Section 4 of this bill repeals the provision transferring authority to approve designation of any portion of a state highway as permissible for off-highway vehicle use from the Department of Transportation to the Department of Motor Vehicles, and thus returns the authority to approve such designations to the Department of Transportation.

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

Section 1. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the

information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

↳ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5 and NRS 483.294, 483.855 and 483.937, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of

process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

- (1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;
- (2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

- (a) Each person to whom the information is provided; and
- (b) The purpose for which that person will use the information.

➤ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if the Director reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the system created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that system.

9. The Director shall adopt such regulations as the Director deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate the person's ability to request information electronically or by written request if the person has submitted to the Department proof of employment or licensure, as applicable, and a signed and notarized affidavit acknowledging that the person:

(a) Has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) Understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) Understands that a record will be maintained by the Department of any information he or she requests; and

(d) Understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, ~~the "personal"~~ :

(a) "Personal" information" means information that reveals the identity of a person, including, without limitation, his or her photograph, social security number, driver's license number, identification card number, name, address,

telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his or her full address, information regarding vehicular accidents or driving violations in which he or she has been involved or other information otherwise affecting his or her status as a driver.

(b) "Vehicle" includes, without limitation, an off-highway vehicle as defined in NRS 490.060.

~~{Section 1.}~~ **Sec. 2.** Section 62 of chapter 504, Statutes of Nevada 2009, at page 3105, is hereby amended to read as follows:

Sec. 62. 1. As soon as practicable after 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, ~~{2010,}~~ **2011**, 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, ~~{2012,}~~ **2013.**

(b) Four members to terms that expire on January 1, ~~{2013,}~~ **2014.**

(c) Three members to terms that expire on January 1, ~~{2014,}~~ **2015.**

~~{Sec. 2.}~~ **Sec. 3.** Section 63 of chapter 504, Statutes of Nevada 2009, at page 3105, is hereby amended to read as follows:

Sec. 63. 1. This 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 **56, inclusive, and 58 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, ~~{2011,}~~ **2012**, or ~~{1 year}~~ **30 days** after the date **on which** the ~~{Interim Finance Committee issues a notice to the}~~ Department of Motor Vehicles ~~{pursuant to section 62.5 of this act,}~~ **publishes on its website a statement indicating that it has completed the preparatory administrative tasks that are necessary to carry out the provisions of this act,** whichever occurs first, for all other purposes.

3. This section and sections 1 to **56, inclusive, and 58 to** 62.5, inclusive, of this act expire by limitation on July 1, ~~{2011,}~~ **2012**, 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.

Sec. 4. Section 57 of chapter 504, Statutes of Nevada 2009, at page 3103, is hereby repealed.

~~{Sec. 3.}~~ **Sec. 5.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

Section 57 of chapter 504, Statutes of Nevada 2009:

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.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 98 to Senate Bill No. 130 authorizes the Department of Motor Vehicles to release certain personal information relating to the title and registration of off-highway vehicles; the release of this information is already allowed under existing law for other types of vehicles. The amendment transfers responsibility to approve the designation of any portion of a state highway as permissible for off-highway vehicle use from the Department of Motor Vehicles to the Department of Transportation. Finally, the amendment specifies that the effective date of the bill is July 1, 2012, or 30 days after the date the Department of Motor Vehicles notifies the public it is ready to begin the off-highway vehicle titling program, whichever is first.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 142.

Bill read second time.

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

Amendment No. 209.

"SUMMARY—Makes various changes concerning the towing and storage of motor vehicles. (BDR 58-924)"

"AN ACT relating to motor vehicles; prohibiting operators of tow cars from imposing certain fees under certain circumstances; ~~requiring the use of competitive bidding for local government contracts for towing services;~~ authorizing an insurer to ~~tow and store~~ **take possession of** a motor vehicle upon ~~notification to its~~ **obtaining the consent of the owner that** of the motor vehicle ~~has been declared a total loss;~~ **or the authorized agent of the owner under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a tow car operator who stores a motor vehicle that was towed at the request of a law enforcement officer following an accident involving the vehicle from charging the owner of the vehicle a fee for the towing and storage of the vehicle for more than 21 days after placing the vehicle in storage. (NRS 706.4479) **Section ~~14~~ 1.5** of this bill also prohibits a tow car operator who tows and stores such a vehicle from imposing any administrative or processing fee, or any fee relating to the auction of the vehicle, for the first **~~14~~ 4 business** days after the date on which the vehicle was placed in storage, but provides no limitation on the period during which those fees may be imposed.

~~Under existing law, local governments are required to use competitive bidding when contracting for the purchase of certain goods and services. (Chapter 332 of NRS) Section 2 of this bill requires local governments to use competitive bidding when contracting with tow car operators for towing services.~~

Section 3 of this bill provides that the owner of a motor vehicle who makes a claim under an insurance policy for damages to the vehicle ~~is deemed to have given permission~~ **or the authorized agent of the owner may give consent** for the insurer **: (1) to tow and store the vehicle at the insurer's expense** ~~upon receipt of notice from the insurer~~ **if the insurer provides notice to the owner** that it has declared the vehicle a total loss ~~+~~ **The insurer is not required to obtain any other release from the owner before towing and storing the vehicle.** **; or (2) to tow the vehicle to a repair shop designated by the owner if the vehicle is a repairable vehicle.** **Section 1 of this bill provides that an insurer may obtain possession of a motor vehicle from a tow car operator if the insurer provides the operator with a form which indicates that the owner of the motor vehicle or his or her agent has consented to the release of the motor vehicle.** **Section 1 requires the Commissioner of Insurance to adopt a standard consent form, which must include: (1) the name of the owner of the motor vehicle or his or her agent from whom the insurer obtained consent; (2) the name of the insurer or his or her agent who obtained the consent and the date on which the consent was obtained; (3) a statement that the insurer obtained the consent of the owner or his or her agent pursuant to section 3; (4) the policy number of the policy of motor vehicle insurance applicable to the motor vehicle; (5) the vehicle identification number of the motor vehicle; (6) the model year and make of the motor vehicle; (7) a statement that the insurer will indemnify the operator for any liability relating to the release of the motor vehicle to the insurer; and (8) any other information required by the Commissioner.** **Section 1 also provides that a tow car operator who releases a motor vehicle to an insurer upon receipt of a consent form which complies with the requirements established by the Commissioner is not liable in any civil or criminal action for any act related to the release of the motor vehicle to the insurer.**

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

Section 1. **Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If a motor vehicle is towed at the request of someone other than the owner or an authorized agent of the owner, an insurer may obtain possession of the motor vehicle from the operator of the tow car if the insurer:

(a) Obtains the consent of the owner or authorized agent of the owner pursuant to section 3 of this act; and

(b) Provides to the operator of the tow car a consent form which satisfies the requirements of subsection 2.

2. The Commissioner of Insurance shall, by regulation, establish a standard consent form for the purposes of this section, which must include, without limitation:

(a) The name of the owner of the motor vehicle or the authorized agent of the owner from whom the insurer obtained consent pursuant to section 3 of this act;

(b) The name of the insurer or his or her agent who obtained the consent of the owner or the authorized agent of the owner pursuant to section 3 of this act and the date on which the consent was obtained;

(c) A statement that the insurer obtained the consent of the owner or the authorized agent of the owner pursuant to section 3 of this act;

(d) The policy number of the policy of motor vehicle insurance applicable to the motor vehicle;

(e) The vehicle identification number of the motor vehicle;

(f) The model year and make of the motor vehicle;

(g) A statement that the insurer will indemnify the operator of the tow car for any liability relating to the release of the motor vehicle to the insurer; and

(h) Any other information required by the Commissioner of Insurance.

3. An operator of a tow car is not liable in any civil or criminal action for any act related to the release of a motor vehicle to an insurer pursuant to a consent form provided to the operator of the tow car by an insurer pursuant to subsection 1.

Sec. 1.1. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.2. NRS 706.166 is hereby amended to read as follows:

706.166 The Authority shall:

1. Subject to the limitation provided in NRS 706.168 and to the extent provided in this chapter, supervise and regulate:

(a) Every fully regulated carrier and broker of regulated services in this State in all matters directly related to those activities of the motor carrier and broker actually necessary for the transportation of persons or property, including the handling and storage of that property, over and along the highways.

(b) Every operator of a tow car concerning the rates and charges assessed for towing services performed without the prior consent of the operator of the vehicle or the person authorized by the owner to operate the vehicle and pursuant to the provisions of NRS 706.011 to 706.791, inclusive ~~11~~, and section 1 of this act.

2. Supervise and regulate the storage of household goods and effects in warehouses and the operation and maintenance of such warehouses in accordance with the provisions of this chapter and chapter 712 of NRS.

3. Enforce the standards of safety applicable to the employees, equipment, facilities and operations of those common and contract carriers subject to the Authority or the Department by:

- (a) Providing training in safety;
- (b) Reviewing and observing the programs or inspections of the carrier relating to safety; and
- (c) Conducting inspections relating to safety at the operating terminals of the carrier.

4. To carry out the policies expressed in NRS 706.151, adopt regulations providing for agreements between two or more fully regulated carriers or two or more operators of tow cars relating to:

- (a) Fares of fully regulated carriers;
- (b) All rates of fully regulated carriers and rates of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle;
- (c) Classifications;
- (d) Divisions;
- (e) Allowances; and
- (f) All charges of fully regulated carriers and charges of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, including charges between carriers and compensation paid or received for the use of facilities and equipment.

➤ These regulations may not provide for collective agreements which restrain any party from taking free and independent action.

5. Review decisions of the Taxicab Authority appealed to the Authority pursuant to NRS 706.8819.

Sec. 1.3. NRS 706.321 is hereby amended to read as follows:

706.321 1. Except as otherwise provided in subsection 2, every common or contract motor carrier shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

- (1) Be open to public inspection; and
- (2) Include all rates, fares and charges which the carrier has established and which are in force at the time of filing for any service performed in connection therewith by any carrier controlled and operated by it.

(b) As a part of that schedule, all regulations of the carrier that in any manner affect the rates or fares charged or to be charged for any service and all regulations of the carrier that the carrier has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~§~~, **and section 1 of this act.**

2. Every operator of a tow car shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

- (1) Be open to public inspection; and
- (2) Include all rates and charges for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the

owner to operate the vehicle which the operator has established and which are in force at the time of filing.

(b) As a part of that schedule, all regulations of the operator of the tow car which in any manner affect the rates charged or to be charged for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle and all regulations of the operator of the tow car that the operator has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~4~~, **and section 1 of this act.**

3. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days' notice to the Authority, and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The Authority, upon application of any carrier, may prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the Authority 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the Authority.

4. The Authority may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services filed pursuant to this section and, after hearing, by order, make such changes as may be just and reasonable.

5. The Authority may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service filed pursuant to this section.

6. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the Authority are in force, and are prima facie lawful, from the date of the order until changed or modified by the Authority, or pursuant to NRS 706.2883.

7. All regulations, practices and service prescribed by the Authority must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, or until changed or modified by the Authority itself upon satisfactory showing made.

Sec. 1.4. NRS 706.4463 is hereby amended to read as follows:

706.4463 1. In addition to the other requirements of this chapter, each operator of a tow car shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of public convenience and necessity from the Authority before the operator provides any services other than those services which the operator provides as a private motor carrier of property pursuant to the provisions of this chapter;

(b) Use a tow car of sufficient size and weight which is appropriately equipped to transport safely the vehicle which is being towed; and

(c) Comply with the provisions of NRS 706.011 to 706.791, inclusive, ~~H.~~ **and section 1 of this act.**

2. A person who wishes to obtain a certificate of public convenience and necessity to operate a tow car must file an application with the Authority.

3. The Authority shall issue a certificate of public convenience and necessity to an operator of a tow car if it determines that the applicant:

(a) Complies with the requirements of paragraphs (b) and (c) of subsection 1;

(b) Complies with the requirements of the regulations adopted by the Authority pursuant to the provisions of this chapter;

(c) Has provided evidence that the applicant has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the applicant has filed with the Authority schedules and tariffs pursuant to subsection 2 of NRS 706.321.

4. An applicant for a certificate has the burden of proving to the Authority that the proposed operation will meet the requirements of subsection 3.

5. The Authority may hold a hearing to determine whether an applicant is entitled to a certificate only if:

(a) Upon the expiration of the time fixed in the notice that an application for a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a determination as to whether the applicant has complied with the requirements of subsection 3.

~~{Section 1.}~~ **Sec. 1.5.** NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the operator **of the tow car** shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than 15 days after placing any other vehicle in storage:

(1) Of the location where the motor vehicle is being stored;

(2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;

(3) Of the charge for towing and storage;

(4) Of the date and time the vehicle was placed in storage;

(5) Of the actions that the registered and legal owner of the vehicle may take to recover the vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges; and

(6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

(b) If the identity of the registered and legal owner is not known or readily available, make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this State or any other state within:

(1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(2) Fifteen days after placing any other motor vehicle in storage.

➤ The operator shall attempt to notify the owner of the vehicle by certified mail as soon as possible, but in no case later than 15 days after identification of the owner is obtained for any motor vehicle.

2. If an operator includes in the operator's tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,
➤ unless the operator complies with the requirements set forth in subsection 1.

3. *If a motor vehicle that is placed in storage was towed at the request of a law enforcement officer following an accident involving the motor vehicle, the operator shall not:*

(a) Satisfy any lien or impose any administrative fee or processing fee with respect to the motor vehicle ~~for any fee relating to the auction of the motor vehicle~~ for the period ending ~~14~~ 4 business days after the date on which the motor vehicle was placed in storage ~~14~~; or

(b) Impose any fee relating to the auction of the motor vehicle until after the operator complies with the notice requirements set forth in NRS 108.265 to 108.367, inclusive.

Sec. 1.6. NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The Authority shall act upon complaints regarding the failure of an operator of a tow car to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~14~~, ***and section 1 of this act.***

2. In addition to any other remedies that may be available to the Authority to act upon complaints, the Authority may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the Authority determines to be appropriate.

Sec. 2. ~~[Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A contract with a tow car operator for towing services is subject to the requirements of this chapter for competitive bidding.~~

~~2. As used in this section, "towing services" has the meaning ascribed to it in NRS 706.132.]~~ **(Deleted by amendment.)**

Sec. 3. Chapter 690B of NRS is hereby amended by adding thereto a new section to read as follows:

The owner of a motor vehicle or the authorized agent of the owner who makes a claim under a policy of insurance for damages to the motor vehicle ~~[shall be deemed to have given]~~ may give his or her consent for :

1. If the insurer provides notice to the owner or the authorized agent of the owner that the motor vehicle is a total loss vehicle as that term is defined in NRS 487.790, the motor vehicle to be towed and placed in storage at the direction and expense of the insurer ~~[upon being given notice that the insurer has declared the vehicle a total loss. The insurer is not required to obtain any other form of release from the owner of the motor vehicle to have the motor vehicle towed and placed in storage.]~~ ; or

2. If the insurer provides notice to the owner or the authorized agent of the owner that the motor vehicle is a repairable vehicle, the motor vehicle to be towed to a repair shop designated by the owner or the authorized agent of the owner.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

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

Amendment No. 209 to Senate Bill No. 142 authorizes an insurer to obtain possession of a motor vehicle from a tow car operator if the insurer provides the operator with a consent form that satisfies the requirements established by the Commissioner of Insurance.

The amendment specifies when a tow car operator may satisfy a lien or impose fees relating to the auction of a towed vehicle.

The amendment deletes the provision requiring competitive bidding of a tow car service contract by a local government.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 144.

Bill read second time and ordered to third reading.

Senate Bill No. 154.

Bill read second time and ordered to third reading.

Senate Bill No. 182.

Bill read second time.

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

Amendment No. 195.

"SUMMARY—Makes various changes concerning renewable energy systems. (BDR 58-286)"

"AN ACT relating to renewable energy; revising certain provisions governing the Solar Thermal Systems Demonstration Program; ~~revising the prospective expiration dates of the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program;~~ revising the capacity goals of the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; requiring the Public Utilities Commission of Nevada to establish categories of participation in the Waterpower Energy Systems Demonstration Program for mining uses, municipalities and Indian tribes and tribal organizations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{This bill revises various provisions governing incentive programs for renewable energy.}~~ **Section 1** of this bill revises provisions governing the Solar Thermal Systems Demonstration Program to remove the requirement that each solar thermal system have a meter or other measuring device installed. ~~In addition, section 1 requires the Public Utilities Commission of Nevada to adopt regulations which identify the classifications and subelassifications of licenses which an installer must hold to install solar thermal systems pursuant to the Solar Thermal Systems Demonstration Program.}~~ **Section 2** of this bill revises provisions governing the performance certifications which must be obtained to establish eligibility for a rebate from **a utility under** the Solar Thermal Systems Demonstration Program.

~~{ Section 3 of this bill increases the capacity goal for the Wind Energy Systems Demonstration Program from 5 megawatts of installed capacity by 2012 to 25 megawatts of installed capacity by 2016. Section 5 of this bill increases the capacity goal for the Waterpower Energy Systems Demonstration Program from 500 kilowatts of installed capacity by 2012 to 20 megawatts of installed capacity by 2016. }~~

~~The Waterpower Energy Systems Demonstration Program was established for agricultural uses. (NRS 701B.820) Section 4 of this bill additionally requires the Commission to establish categories of participation in the Waterpower Energy Systems Demonstration Program for: (1) mining uses by operators of mines that are customers of a public utility which supplies electricity in this State; (2) municipalities that are customers of a public utility which supplies electricity in this State; and (3) Indian tribes or tribal organizations that are customers of a public utility which supplies electricity in this State.~~

~~Sections 6-8 of this bill revise the prospective expiration dates of the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program from June 30, 2011, to June 30, 2013.}~~

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

Section 1. NRS 701B.336 is hereby amended to read as follows:

701B.336 1. The Commission shall establish the Solar Thermal Systems Demonstration Program to carry out the intent of the Legislature to promote the installation of at least 3,000 solar thermal systems in homes, businesses, schools and other governmental buildings throughout this State by 2019.

2. The Demonstration Program must have four categories of participants as follows:

- (a) School property;
- (b) Public and other property;
- (c) Private residential property; and
- (d) Small business property.

3. To be eligible to participate in the Demonstration Program, a person must:

- (a) Apply to a utility on a form prescribed by the Commission;
- (b) Meet the qualifications established pursuant to subsection 5 and be approved by the utility;

(c) When installing a solar thermal system, use an installer who has been issued ~~at~~ ~~classification C-1 license with~~ the appropriate ~~subclassification~~ **license** by the State Contractors' Board; ~~pursuant to the regulations adopted by the Board;~~ ~~with a classification and subclassification which have been determined by the Commission pursuant to subsection 5 to be appropriate for installing solar thermal systems pursuant to the Demonstration Program;~~ and

(d) If the person participates in the category of school property or public and other property, provide for the public display of the solar thermal system, including, without limitation, providing for public demonstrations of the solar thermal system and for hands-on experience of the solar thermal system by the public.

4. The utility shall notify each applicant who is approved to participate in the Demonstration Program not later than 10 days after the approval.

5. The Commission shall adopt regulations which must include, without limitation, provisions which:

(a) Establish the qualifications an applicant must meet to qualify to participate in the Demonstration Program.

(b) Establish specifications for the design, installation, energy output and displacement standards of the solar thermal systems that qualify for the Demonstration Program.

(c) Require that the components of any solar thermal system be new and unused.

(d) Require that any solar thermal collector have a warranty against defects and undue degradation of not less than 10 years.

(e) Require that a solar thermal system be installed in a building which is connected to the existing distribution system of a utility in this State.

~~(f) [Require that a solar thermal system have a meter or other measuring device installed to monitor and measure the performance of the system and the quantity of energy generated or displaced by the system.~~

~~(g)~~ Require that a solar thermal system be installed in conformity with the manufacturer's specifications and all applicable codes and standards.

~~(h)~~ (g) Establish siting and installation requirements for solar thermal systems to ensure efficient and appropriate installation and to promote maximized performance of such systems.

~~[(h) Identify the classifications and subclassifications of licenses issued by the State Contractors' Board which the Commission determines are appropriate for installing solar thermal systems pursuant to the Demonstration Program.]~~

6. As used in this section, "applicant" means a person who applies to the utility to participate in the Demonstration Program.

Sec. 2. NRS 701B.342 is hereby amended to read as follows:

701B.342 1. The Commission shall adopt regulations establishing program milestones and a rebate program for a participant who installs a solar thermal system. The rebates provided by ~~the Commission~~ a utility pursuant to this section must:

- (a) Decline over time as the program milestones are reached;
- (b) Be structured to reduce the cost of solar thermal systems; and
- (c) Be based on the actual energy savings or predicted energy savings of the solar thermal system as determined by the Commission.

2. The regulations must require that to be eligible for a rebate pursuant to the Demonstration Program, a solar thermal system must have received an **OG-100 or OG-300** performance certification from the Solar Rating and Certification Corporation ~~or any other performance certification approved by the Commission.~~

3. In determining the amount of the rebates provided through the Demonstration Program, the Commission shall consider any federal tax credits and other incentives available to participants.

Sec. 3. ~~[NRS 701B.590 is hereby amended to read as follows:~~

~~701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:~~

~~1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than [5] 25 megawatts of wind energy systems in this State by [2012] 2016 and the goals for each category of the Program.~~

~~2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 701B.820 is hereby amended to read as follows:~~

~~701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.~~

~~2. [The Waterpower Demonstration Program is created for agricultural uses.~~

~~3.] To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection [4.] 3, apply to a utility and be selected by the utility for inclusion in the Waterpower Demonstration Program.~~

~~[4.] 3. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program. The regulations must establish categories of participation in the Waterpower Demonstration Program for:~~

~~(a) Agricultural uses;~~

~~(b) Mining uses by operators of mines that are customers of a utility;~~

~~(c) Municipalities that are customers of a utility; and~~

~~(d) Indian tribes and tribal organizations that are customers of a utility.]~~

(Deleted by amendment.)

Sec. 5. ~~[NRS 701B.840 is hereby amended to read as follows:~~

~~701B.840 The Commission shall adopt regulations that establish:~~

~~1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than [500 kilowatts] 20 megawatts of waterpower energy systems in this State by [2012] 2016 and the goals for each category of the Program.~~

~~2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.] (Deleted by amendment.)~~

Sec. 6. ~~[Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:~~

~~Sec. 113. 1. This act becomes effective:~~

~~(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and~~

~~(b) For all other purposes besides those described in paragraph (a):~~

~~(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.~~

~~(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.~~

~~(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.~~

~~(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.~~

~~(5) For section 48 of this act, on January 1, 2010.~~

~~(6) For section 50 of this act, on January 1, 2011.~~

~~2. Sections 62 to 106, inclusive, of this act expire by limitation on June 30, [2011.] 2013. (Deleted by amendment.)~~

~~Sec. 7. [Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:~~

~~Sec. 13. 1. This act becomes effective on July 1, 2009.~~

~~2. Sections 2 and 3 of this act expire by limitation on June 30, [2011.] 2013. (Deleted by amendment.)~~

~~Sec. 8. [Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:~~

~~Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.~~

~~2. Sections 1.51, 1.85, 1.87, 1.92, 1.93, 1.95, 4.3 to 9, inclusive, and 19.4 of this act expire by limitation on June 30, [2011.] 2013.~~

~~3. Sections 1.53 and 19.8 of this act become effective on July 1, [2011.] 2013. (Deleted by amendment.)~~

~~Sec. 9. The Public Utilities Commission of Nevada shall adopt [the] any regulations necessary to carry out the provisions of this act on or before December 31, 2011.~~

~~Sec. 10. [1. This section and sections 6 to 9, inclusive, of this act become effective upon passage and approval.~~

~~2. Sections 1 to 5, inclusive, of this act become] This act becomes effective [upon passage and approval for the purposes of adopting regulations and] on July 1, 2011 . [1. for all other purposes.~~

~~3. Sections 3, 4 and 5 of this act expire by limitation on June 30, 2013.]~~

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 195 to Senate Bill No. 182 removes the references to specific categories of acceptable State Contractors' Board licenses for performing solar thermal system installations. Instead, the amendment simply provides that an installer shall use "an appropriate" license as determined by the Board. This approach provides flexibility for possible future license category changes but still leaves the determination of the correct license to the Board.

The amendment makes similar changes in regard to the proper performance certification required for the solar thermal systems themselves. The Public Utilities Commission is given authority to specify the most appropriate certification.

Finally, the amendment deletes the provisions relating to the expansion and extension of the wind and waterpower energy systems rebate programs; those programs will be addressed in a different bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 238.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 125.

"SUMMARY—Revises provisions concerning the Advisory Board on Automotive Affairs. (BDR 43-994)"

"AN ACT relating to motor vehicles; increasing the membership and revising the duties of the Advisory Board on Automotive Affairs; establishing certain qualifications for membership on the Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Advisory Board on Automotive Affairs consists of seven members appointed by the Governor. One member represents the Department of Motor Vehicles, the general public is represented by two members, and body shops, automobile wreckers, garages and salvage pools are each represented by one member. The Board's duties include: (1) studying the regulation of the businesses and industries that are represented on the Board; (2) analyzing and advising the Department with respect to consumer complaints relating to those businesses and industries; and (3) making recommendations to the Department for regulations or legislation concerning those businesses and industries. Before each regular session of the Legislature, the Board prepares a report of its activities and recommendations for submission to the Governor and the Legislature. (NRS 487.002)

This bill increases the membership of the Board to ~~nine~~ **10** members. ~~[The number of members representing the general public is reduced from two to one, and three]~~ **Three** new members are added, one to represent each of the following businesses or industries: (1) authorized emissions stations; (2) insurers of motor vehicles; and (3) new or used motor vehicle dealers. This bill also establishes certain qualifications for membership on the Board. Every member must have been a resident of this state for at least 5 years immediately preceding his or her appointment. **This bill also requires that at least one of the two members appointed to represent the general public be a resident of a county whose population is less than 55,000 (currently counties other than Clark and Washoe Counties and Carson City).** In addition, each member appointed to represent a business or industry must hold the appropriate license or registration to engage in that business or industry and must have been actively engaged in that business or industry for at least 3 of the 5 years immediately preceding his or her appointment. Finally, this bill requires the Board to extend the scope of its existing duties to include all the businesses and industries that are represented on the Board.

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

Section 1. NRS 487.002 is hereby amended to read as follows:

487.002 1. The Advisory Board on Automotive Affairs, consisting of ~~[seven] ~~nine~~~~ **10** members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

(a) One representative of the Department;

(b) One representative of licensed operators of body shops;
 (c) One representative of licensed automobile wreckers;
 (d) One representative of registered garage operators;
 (e) One representative of licensed operators of salvage pools; ~~and~~
 (f) ~~Two representatives~~ *One representative of licensed operators of authorized emissions stations;*

(g) *One representative of licensed insurers of motor vehicles;*
 (h) *One representative of licensed new or used motor vehicle dealers;*
 and

(i) ~~One representative~~ Two representatives of the general public ~~This~~ , at least one of whom must be a resident of a county whose population is less than 55,000. A member appointed pursuant to this paragraph must not be:

(1) *A holder of a license or registration identified in paragraphs (b) to (h), inclusive; or*

(2) *The spouse or the parent or child, by blood, marriage or adoption, of a holder of such a license or registration.*

3. *Each member appointed must, at the time of his or her appointment, have been a resident of this State for at least 5 years immediately preceding the appointment. Each member who is appointed to represent a business or industry specified in paragraphs (b) to (h), inclusive, of subsection 2, must, at the time of his or her appointment:*

(a) *Hold a license or registration to engage in the business or industry that the member is appointed to represent; and*

(b) *Have been actively engaged in the business or industry that the member is appointed to represent for at least 3 of the 5 years immediately preceding the appointment.*

4. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their number a Chair and a Vice Chair. *The Chair is not entitled to a vote except to break a tie.* The Department shall provide secretarial services for the Board.

~~4.~~ 5. The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chair ~~or a majority of the members of the Board.~~ ~~Five~~ Six *members of the Board constitute a quorum, and a quorum may exercise all the power and authority conferred on the Board.* Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally ~~while attending meetings of the Board.~~

~~5.~~ *while attending meetings of the Board.*

6. The Board shall:

(a) Study the regulation of garage operators, automobile wreckers, ~~and~~ operators of body shops ~~and~~, *operators of salvage pools, operators of authorized emissions stations, insurers of motor vehicles and new and used motor vehicle dealers,* including, without limitation, the registration or

licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints received by the Department concerning garage operators, automobile wreckers, ~~and~~ operators of body shops, ~~and~~ *operators of salvage pools*, *operators of authorized emissions stations, insurers of motor vehicles and new and used motor vehicle dealers;*

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~and~~ *and the Chairs of the Senate and Assembly Standing Committees on Transportation;* and

(e) Perform any other duty assigned by the Department.

7. *As used in this section, "authorized emissions stations" means stations licensed by the Department pursuant to NRS 445B.775 to inspect, repair, adjust or install devices for the control of emissions of motor vehicles.*

Sec. 2. 1. The terms of the current members of the Advisory Board on Automotive Affairs appointed pursuant to paragraph (f) of subsection 2 of NRS 487.002 expire on June 30, 2011.

2. As soon as practicable after July 1, 2011, the Governor shall appoint to the Advisory Board on Automotive Affairs the members required by paragraphs (f) to (i), inclusive, of subsection 2 of NRS 487.002, as amended by section 1 of this act. The initial term of the members appointed pursuant to paragraphs (f) and (g) of subsection 2 of NRS 487.002 as amended by section 1 of this act expire on June 30, 2013. The initial ~~terms~~ term of the ~~members~~ member appointed pursuant to ~~paragraphs~~ paragraph (h) ~~and~~ (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act ~~expire~~ expires on June 30, 2015. The initial term of one member appointed pursuant to paragraph (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2013, and the initial term of the other member appointed pursuant to paragraph (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2015.

Sec. 3. Notwithstanding the amendatory provisions of this act, a member of the Advisory Board on Automotive Affairs who was appointed pursuant to paragraphs (a) to (e), inclusive, of subsection 2 of NRS 487.002 and who is serving a term on July 1, 2011, is entitled to serve out the remainder of the term to which he or she was appointed.

Sec. 4. 1. This section and section 2 of this act become effective upon passage and approval.

2. Sections 1 and 3 of this act become effective on July 1, 2011.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 125 to Senate Bill No. 238 increases the number of members on the Advisory Board on Automotive Affairs from nine to ten. It provides that at least one of the public members of the Board reside in a rural area, outlines the terms of office for the new members, and specifies the number of members required for a quorum. The amendment also makes the Chair of the Board a non-voting member unless the vote is needed to break a tie.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 248.

Bill read second time and ordered to third reading.

Senate Bill No. 259.

Bill read second time.

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

Amendment No. 193.

"SUMMARY—Revises provisions governing ~~licensed family~~ **certain** trust companies. (BDR 55-629)"

"AN ACT relating to ~~licensed family~~ trust companies; revising provisions governing the management of a trust by a **family trust company or** licensed family trust company; specifying the applicability of the Uniform Prudent Investor Act to a trust managed by a **family trust company or** licensed family trust company; ~~requiring a licensed family trust company to administer a trust in this State except under certain circumstances;~~ authorizing a **family trust company or** licensed family trust company to engage in certain transactions involving the assets of the trust or take certain actions if the transaction or action is in the interest of the beneficiaries and complies with certain other requirements; authorizing a **family trust company or** licensed family trust company and an interested person to enter into a nonjudicial settlement agreement to resolve any matter related to the management, administration or interpretation of a trust; requiring a **family trust company and** licensed family trust company to provide an annual report **or certain information in lieu of an annual report** to certain persons concerning the management of a trust; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a trust company that has been appointed as the fiduciary of a trust to invest and manage the assets of the trust according to the Uniform Prudent Investor Act. (NRS 164.700-164.775) The prudent investor rule requires, among other things, that a fiduciary of a trust diversify the assets of the trust through various investments. (NRS 164.750) Existing law places further restrictions on the types of transactions that a trust company may engage in with the assets of a trust for which it is a fiduciary.

(NRS 669A.230) ~~Existing law also requires a trust company to obtain a court order to transfer the principal place of administration of the trust to a jurisdiction outside of this State. (NRS 164.130)~~

~~Sections 4 and 15 of this bill provide that a trust that is managed by a licensed family trust company is subject only to certain~~ **Section 15 of this bill provides an exception to the** provisions of the Uniform Prudent Investor Act as it applies to the management of ~~the~~ **a trust** ~~and those provisions of the Uniform Prudent Investor Act which are specifically incorporated by a term of the trust.~~ **by a family trust company or licensed family trust company.** **Section 7** of this bill authorizes a **family trust company or** licensed family trust company to engage in activities and transactions involving the assets of a trust, including the acquisition of concentrated holdings of stocks, bonds, securities or other assets, which might otherwise be prohibited by the Uniform Prudent Investor Act. **Section 7** requires that such transactions or actions by a **family trust company or** licensed family trust company be for a fair price, if applicable, be in the interest of the beneficiaries and comply with the terms of the trust, a written consent agreement, ~~for~~ a court order, ~~or~~ **or a notice of proposed action.** Furthermore, the transactions authorized by **section 7** are not prohibited by a conflict of interest between the parties to the transaction.

Section 8 of this bill authorizes a **family trust company or** licensed family trust company and an interested person to enter into a nonjudicial settlement agreement with respect to any matter related to the management, administration or interpretation of a trust. **Section 8** also authorizes a **family trust company or** licensed family trust company or an interested person to petition a court to approve a nonjudicial settlement agreement or to make certain other determinations related to the nonjudicial settlement agreement. **Section 9** of this bill requires a **family trust company or** licensed family trust company that intends to execute a nonjudicial settlement agreement to meet certain notice requirements before executing the nonjudicial settlement agreement and also requires an interested person who receives such notice to object within a certain period to preserve the right to bring certain actions relating to the nonjudicial settlement agreement. **Section 9** also authorizes a **family trust company or** licensed family trust company or an interested person who timely objects to petition the court to approve, disapprove, enforce or modify the nonjudicial settlement agreement. **Section 10** of this bill authorizes a **family trust company or** licensed family trust company to refrain from taking an action that is authorized by a nonjudicial settlement agreement under certain circumstances.

~~Section 6 of this bill requires that a trust managed by a licensed family trust company be administered in this State and pursuant to any applicable laws of this State except under certain circumstances.~~ **Section 11** of this bill requires a **family trust company and** licensed family trust company to provide annual reports to certain persons outlining any transactions taken by the **family trust company or** licensed family trust company while acting as

the fiduciary of a trust ~~it~~ **and further authorizes the trust company to provide an interested person with certain other information in lieu of an annual report.**

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

Section 1. Chapter 669A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *"Interested person" means a person, other than the grantor of a trust, who is:*

1. A person who would be a necessary party to a judicial proceeding involving a trust; or

2. An authorized representative pursuant to NRS 164.038.

Sec. 3. ~~*[A] Notwithstanding the provisions of any law to the contrary, a family trust company or licensed family trust company, or an employee or agent of a family trust company or licensed family trust company, is not liable to an interested person for any transaction, decision to act or decision to not act if the family trust company or licensed family trust company, or employee or agent thereof acted in good faith and in reasonable reliance on the express terms of a trust instrument, a written consent agreement or a court order.*~~

Sec. 4. ~~*[It] Except as otherwise provided in this chapter or by specific statute, a family trust company or licensed family trust company is subject to the provisions of this chapter only to the extent that the family trust company or licensed family trust company is engaged in the business of a family trust company or licensed family trust company.*~~

~~*2. A trust that is managed by a licensed family trust company pursuant to this chapter is subject only to the provisions of NRS 164.700 to 164.775, inclusive, which are specifically incorporated by a term of the trust or which govern.*~~

~~*(a) The requirements for creating a trust;*~~

~~*(b) The requirement that a trust and its terms be for the benefit of its beneficiaries;*~~

~~*(c) The requirement that a trust have a purpose that is lawful and possible to achieve;*~~

~~*(d) The duty of a fiduciary to act in good faith and in accordance with the terms and purposes of the trust;*~~

~~*(e) The duty of a fiduciary to act in the interest of the beneficiaries; and*~~

~~*(f) The power of the court to take any action or exercise its jurisdiction as provided by law.*~~ **}, respectively.**

Sec. 5. *While acting as the fiduciary of a trust, a family trust company or licensed family trust company:*

1. Shall administer and manage the trust in accordance with the terms of the trust;

2. Shall administer and manage the trust in the interest of the beneficiaries of the trust;

3. *Shall administer and manage the trust in accordance with the provisions of this chapter; and*

4. *May administer and manage the trust by the exercise of discretionary power of administration given to the fiduciary by the terms of the trust instrument.*

~~Sec. 6. 1. Except as otherwise provided in subsection 2 and section 4 of this act, a licensed family trust company that is the fiduciary of a trust shall administer the trust in this State pursuant to the provisions of chapter 164 of NRS and any other applicable laws of this State.~~

~~2. A licensed family trust company that is the fiduciary of a trust may administer the trust in a jurisdiction outside of this State if:~~

~~(a) The terms of the trust instrument authorize the fiduciary to administer the trust in a jurisdiction outside of this State;~~

~~(b) The terms of the trust instrument require the trust to be interpreted pursuant to the laws of a jurisdiction outside of this State; or~~

~~(c) A court of competent jurisdiction in this State issues an order transferring supervision of the administration of the trust to a court outside of this State.] (Deleted by amendment.)~~

Sec. 7. 1. ~~[Notwithstanding]~~ In addition to the transactions authorized by NRS 669A.230 and notwithstanding the provisions of any other law to the contrary, while acting as the fiduciary of a trust, a family trust company or licensed family trust company may:

(a) Invest in a security of an investment company or investment trust for which the family trust company or licensed family trust company, or a family affiliate, provides services in a capacity other than as a fiduciary;

(b) Place a security transaction using a broker that is a family affiliate;

(c) Invest in an investment contract that is purchased from an insurance company or carrier owned by or affiliated with the family trust company or licensed family trust company, or a family affiliate;

(d) Enter into an agreement with a beneficiary or grantor of a trust with respect to the appointment or compensation of the fiduciary or a family affiliate;

(e) Transact with another trust, estate, guardianship or conservatorship for which the family trust company or licensed family trust company is a fiduciary or in which a beneficiary has an interest;

(f) Make an equity investment in a closely held entity that may or may not be marketable and that is owned or controlled, either directly or indirectly, by one or more beneficiaries, family members or family affiliates;

(g) Deposit trust money in a financial institution that is owned or operated by a family affiliate;

(h) Delegate the authority to conduct any transaction or action pursuant to this section to an agent of the family trust company or licensed family trust company, or a family affiliate;

(i) Purchase, sell, hold, own or invest in any security, bond, real or personal property, stock or other asset of a family affiliate;

(j) Loan money to or borrow money from:

(1) A family member of the trust or his or her legal representative;

(2) Another trust managed by the family trust company or licensed family trust company; or

(3) A family affiliate;

(k) ~~Enter into a nonjudicial settlement agreement pursuant to section 8 of this act;~~

~~(l)~~ Act as proxy in voting any shares of stock which are assets of the trust;

~~(m)~~ (l) Exercise any powers of control with respect to any interest in a company that is an asset of the trust, including, without limitation, the appointment of officers or directors who are family affiliates; and

~~(n)~~ (m) Receive reasonable compensation for its services or the services of a family affiliate.

2. A transaction or action authorized pursuant to subsection 1 must:

(a) Be for a fair price, if applicable;

(b) Be in the interest of the beneficiaries; and

(c) Comply with:

(1) The terms of the trust instrument establishing the fiduciary relationship;

(2) A judgment, decree or court order; ~~for~~

(3) The written consent of each interested person ~~for~~; or

(4) A notice of proposed action issued pursuant to NRS 164.725.

3. Except as otherwise provided in subsection 2, nothing in this section prohibits a family trust company or licensed family trust company from transacting business with or investing in any asset of:

(a) A trust, estate, guardianship or conservatorship for which the family trust company or licensed family trust company is a fiduciary;

(b) A family affiliate; or

(c) Any other company, agent, entity or person for which a conflict of interest may exist.

4. A conflict of interest between the fiduciary duty and personal interest of a family trust company or licensed family trust company does not void a transaction or action that:

(a) Complies with the provisions of this section; or

(b) Occurred before the family trust company or licensed family trust company entered into a fiduciary relationship pursuant to a trust instrument.

5. A transaction by or action of a family trust company or licensed family trust company authorized by this section is not voidable if:

(a) The transaction or action was authorized by the terms of the trust;

(b) The transaction or action was approved by a court or pursuant to a court order;

(c) No interested person commenced a legal action relating to the transaction or action pursuant to subsection 6;

(d) The transaction or action was authorized by a valid consent agreement, ~~for~~ release, ~~for~~ or pursuant to the issuance of a notice of proposed action issued pursuant to NRS 164.725; or

(e) The transaction or action occurred before the family trust company or licensed family trust company entered into a fiduciary relationship pursuant to a trust instrument.

6. A legal action by an interested person alleging that a transaction or action by a family trust company or licensed family trust company is voidable because of the existence of a conflict of interest must be commenced within 1 year after the date on which the interested person discovered, or by the exercise of due diligence should have discovered, the facts in support of his or her claim.

7. Notwithstanding the provisions of any other law to the contrary, a family trust company or licensed family trust company is not required to obtain court approval for any transaction that otherwise complies with the provisions of this section.

Sec. 8. 1. A family trust company or licensed family trust company and an interested person may enter into a nonjudicial settlement agreement with respect to any matter involving the management, administration or interpretation of a trust that is managed pursuant to this chapter.

2. A nonjudicial settlement agreement that is entered into pursuant to this section must not contain:

(a) Terms that violate a material purpose of the trust; or

(b) Terms or conditions that could not be approved by a court.

3. The matters that may be resolved by a nonjudicial settlement agreement which is entered into pursuant to this section include, without limitation:

(a) Those pertaining to any transaction or action authorized pursuant to paragraphs (a) to ~~((m))~~ (m), inclusive, of subsection 1 of section 7 of this act;

(b) The investment or use of trust assets;

(c) The lending or borrowing of money;

(d) The addition, deletion or modification of a term or condition of the trust;

(e) The interpretation or construction of a term or condition of the trust;

(f) The designation or transfer of the principal place of administration of the trust;

(g) The approval of a report or accounting that is provided pursuant to section 11 of this act;

(h) Direction to a fiduciary to refrain from performing a particular act or the grant to a fiduciary of any necessary or desirable power;

(i) The resignation or appointment of a fiduciary;

(j) *The liability of a fiduciary for an action related to the management of the trust; and*

(k) *The termination of the trust.*

4. *After notice has been provided pursuant to section 9 of this act, a family trust company or licensed family trust company or an interested person may petition a court to approve a nonjudicial settlement agreement, to determine whether the nonjudicial settlement agreement was accurately represented to each interested person or to determine whether the nonjudicial settlement agreement contains terms or conditions that the court could approve. A family trust company or licensed family trust company is not liable to an interested person for taking an action that is authorized by a nonjudicial settlement agreement which has been approved by a court.*

Sec. 9. 1. *A family trust company or licensed family trust company shall provide written notice by personal service or by certified mail to each interested person who is a necessary party to a nonjudicial settlement agreement entered into pursuant to section 8 of this act. A family trust company or licensed family trust company is not required to provide notice to any interested person who has consented in writing to the nonjudicial settlement agreement.*

2. *The notice provided pursuant to this section must:*

(a) *Be provided at least 15 days before the execution of the nonjudicial settlement agreement;*

(b) *Include a true and correct copy of the nonjudicial settlement agreement;*

(c) *State that the notice is provided pursuant to this section and section 8 of this act;*

(d) *State the name and mailing address of the family trust company or licensed family trust company;*

(e) *State the date by which an objection to the nonjudicial settlement agreement must be made; and*

(f) *State the date on which the nonjudicial settlement agreement is to be executed.*

3. *An interested person who receives notice pursuant to this section may object to any term or condition of, or any act that is authorized by, the nonjudicial settlement agreement by submitting his or her objection in writing to the family trust company or licensed family trust company within 1 year after the date on which the interested person received the notice. Except as otherwise provided in subsection 5, if an interested person does not object within 1 year after receiving notice, his or her objection is waived, and the interested person may not bring any action relating to the terms and conditions of, or any act taken pursuant to, the nonjudicial settlement agreement.*

4. *An interested person who objects within the period specified in subsection 3 may petition the court for an order to approve, disapprove,*

enforce or modify the nonjudicial settlement agreement. The burden is on the interested person to prove that the nonjudicial settlement agreement should be approved, disapproved, enforced or modified.

5. *The provisions of subsection 3 do not prohibit an interested person who has received notice pursuant to this section and who fails to object to the nonjudicial settlement agreement within 1 year after receiving the notice from bringing an action alleging that the nonjudicial settlement agreement was procured fraudulently, or entered into by the family trust company or licensed family trust company in bad faith or in willful violation of the terms of the trust. A person who brings such an action has the burden of proving by clear and convincing evidence that the nonjudicial settlement agreement was procured fraudulently, in bad faith or in willful violation of the terms of the trust.*

6. *Except as otherwise provided in subsection 5, if no interested person who is entitled to receive notice pursuant to this section objects to the nonjudicial settlement agreement within 1 year after receiving the notice, a family trust company or licensed family trust company is not liable to any interested person for taking any action that is authorized by the nonjudicial settlement agreement.*

Sec. 10. 1. *A family trust company or licensed family trust company may refrain from taking an action that is authorized by a nonjudicial settlement agreement if the family trust company or licensed family trust company determines in good faith that the action is not in the interest of the beneficiaries of the trust.*

2. *A family trust company or licensed family trust company that refrains from taking an action pursuant to subsection 1 shall provide written notice to each interested person within 15 days after its decision not to take the action and include in the notice the reasons for not taking the action.*

3. *An interested person who receives notice pursuant to subsection 2 may petition the court for an order requiring the family trust company or licensed family trust company to take the action authorized by the nonjudicial settlement agreement. The burden is on the beneficiary to prove that the proposed action is in the interest of the beneficiaries of the trust and should be taken.*

4. *A family trust company or licensed family trust company is not liable to an interested person for not taking an action that is authorized by a nonjudicial settlement agreement if the family trust company or licensed family trust company acted in good faith in not taking the action.*

Sec. 11. 1. *Except as otherwise provided in subsection 4, a family trust company or licensed family trust company, while acting as the fiduciary of a trust, shall provide an annual report to each interested person for each year of the existence of the trust until the trust is terminated, at which time the trust company shall provide to each interested person a final report.*

2. *A report that is provided pursuant to this section must, for the year immediately preceding the report, provide an accounting of:*

(a) *Each asset and liability of the trust and its current market value or amount, if known;*

(b) *Each disbursement of income or principal, including the amount of the disbursement and to whom the disbursement was made;*

(c) *All payments of compensation from any source to the family trust company or licensed family trust company or any other person for services rendered; and*

(d) *Any other transaction involving an asset of the trust.*

3. *An interested person who is entitled to a report pursuant to this section may waive his or her right to the report by submitting a written waiver to the family trust company or licensed family trust company. An interested person who waives his or her right to a report may withdraw the waiver by submitting to the family trust company or licensed family trust company a written request for a report.*

4. *A family trust company or licensed family trust company is not required to provide a report pursuant to this section if the terms of the trust provide an exception to this requirement.*

5. *A family trust company or licensed family trust company may require an interested person who is entitled to receive confidential information pursuant to this section to execute a confidentiality agreement before providing the person with any confidential information.*

6. *In lieu of the information that a trustee is required to provide to an interested person pursuant to subsection 2, a trustee may provide to an interested person a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (a) to (d), inclusive, of subsection 2. Upon request, the trustee shall make all the information used in the preparation of the financial report available to each interested person who was provided a copy of the financial report pursuant to this subsection.*

7. *For the purposes of this chapter, information provided by a trustee to an interested person pursuant to subsection 6 is deemed an annual report.*

8. *A trustee may provide an annual report to an interested person via electronic mail or through a secure Internet website.*

Sec. 12. NRS 669A.020 is hereby amended to read as follows:

669A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 669A.030 to 669A.090, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 13. NRS 669A.060 is hereby amended to read as follows:

669A.060 "Family affiliate" means a company or other entity with respect to which {a} **one or more** family {member possesses;} **members or affiliates own, directly or indirectly, a material interest in the company or**

entity, or possess, directly or indirectly, the power to direct or cause the direction of the management and policies of that company or entity, whether through the ownership of voting securities, by contract, power of direction or otherwise.

Sec. 13.5. NRS 669A.230 is hereby amended to read as follows:

669A.230 1. Except as otherwise provided in subsection 2, the assets forming the minimum capital of a licensed family trust company pursuant to NRS 669A.160 must:

(a) Consist of:

- (1) Cash;
- (2) Governmental obligations or insured deposits that mature within 3 years after acquisition;
- (3) Readily marketable securities or other liquid, secure assets, bonds, sureties or insurance; or

(4) Any combination thereof.

(b) Have an aggregate market value that equals or exceeds 100 percent of the company's required stockholders' equity.

2. A licensed family trust company may purchase or rent real or personal property for use in the conduct of the business and other activities of the company.

3. ~~[Notwithstanding]~~ **Except as otherwise provided in section 7 of this act, and notwithstanding** any other provisions of law to the contrary, a licensed family trust company may invest its funds for its own account, other than those required or permitted to be maintained by subsection 1 or 2, in any type or character of equity securities, debt securities or other asset provided the investment complies with the prudent investor standards set forth in NRS 164.700 to 164.775, inclusive.

4. ~~[Notwithstanding]~~ **Except as otherwise provided in section 7 of this act and notwithstanding** the provisions of any other law to the contrary, a family trust company is authorized while acting as a fiduciary to purchase for the fiduciary estate, directly from underwriters or distributors or in the secondary market:

(a) Bonds or other securities underwritten or distributed by the family trust company or an affiliate thereof or by a syndicate which includes the family trust company, provided that the family trust company discloses in any written communication or account statement reflecting the purchase of those bonds or securities the nature of the interest of the family trust company in the underwriting or distribution of those bonds and securities and whether the family trust company received any fee in connection with the purchase; and

(b) Securities of any investment company ~~as defined under the Investment Company Act of 1940~~ for which the family trust company acts as advisor, custodian, distributor, manager, registrar, shareholder servicing agent, sponsor or transfer agent, or provided the family trust company discloses in any written communication or account statement reflecting the

purchase of the securities the nature of the relationship and whether the family trust company received any fee for providing those services.

5. ~~The~~ **Except as otherwise provided in section 7 of this act, the** authority granted in subsection 4 may be exercised only if:

(a) The investment is not expressly prohibited by the instrument, judgment, decree or order establishing the fiduciary relationship;

(b) The family trust company discloses in writing to the person or persons to whom it sends account statements its intent to exercise the authority granted in subsection 4 before the first exercise of that authority; and

(c) The family trust company procures in writing the consent of its cofiduciaries with discretionary investment powers, if any, to the investment.

6. ~~It~~ **Except as otherwise provided in section 7 of this act, a** family trust company may:

(a) Invest in the securities of an investment company ~~as defined under the federal Investment Company Act of 1940~~ or investment trust, to which the family trust company or its affiliate provides services in a capacity other than as trustee. The investment is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor standards set forth in NRS 164.700 to 164.775, inclusive.

(b) Be compensated by an investment company or investment trust described in paragraph (a) for providing services in a capacity other than as trustee if the family trust company discloses at least annually to each person to whom it sends account statements the rate and method by which the compensation was determined.

7. ~~Nothing~~ **Except as otherwise provided in section 7 of this act, nothing** in subsections 4, 5 and 6 shall affect the degree of prudence which is required of fiduciaries under the laws of this State. Any bonds or securities purchased under authority of this section are not presumed to be affected by a conflict between the fiduciary's personal and fiduciary interest if the purchase of the bonds or securities:

(a) Is at a fair price;

(b) Is in accordance with:

(1) The interest of the beneficiaries; and

(2) The purposes of the trusts; and

(c) Complies with:

(1) The prudent investor standards set forth in NRS 164.700 to 164.775, inclusive; and

(2) The terms of the instrument, judgment, decree or order establishing the fiduciary relationship.

8. ~~Notwithstanding~~ **Except as otherwise provided in section 7 of this act and notwithstanding** the provisions of subsections 4 to 7, inclusive, a family trust company which is authorized to exercise trust powers in this State and which is acting as a fiduciary shall not purchase for the fiduciary estate any fixed income or equity security issued by the family trust company or an affiliate thereof unless:

- (a) The family trust company is expressly authorized to do so by:
 - (1) The terms of the instrument creating the trust;
 - (2) A court order;
 - (3) The written consent of the grantor of the trust; or
 - (4) The written consent of every adult beneficiary of the trust who, at the time notice is provided pursuant to paragraph (b) of subsection 5, receives or is entitled to receive income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated; or
- (b) The purchase of the security:
 - (1) Is at a fair price; and
 - (2) Complies with:
 - (I) The prudent investor standards set forth in NRS 164.700 to 164.775, inclusive; and
 - (II) The terms of the instrument, judgment, decree or order establishing the fiduciary relationship.

9. As used in this section:

(a) "Face-amount certificate" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(15).

(b) "Government securities" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(16).

(c) "Investment company" means any issuer which:

(1) Is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities;

(2) Is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or has been engaged in such business and has any such certificate outstanding; or

(3) Is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of the total assets of the issuer, exclusive of government securities and cash items, on an unconsolidated basis.

(d) "Issuer" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(22).

Sec. 14. NRS 90.250 is hereby amended to read as follows:

90.250 "Investment adviser" means any person who, for compensation, engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term does not include:

- 1. An employee of an adviser;
- 2. A depository institution;
- 3. A lawyer, accountant, engineer or teacher whose performance of investment advisory services is solely incidental to the practice of the person's profession;

4. A broker-dealer whose performance of investment advisory services is solely incidental to the conduct of business as a broker-dealer and who receives no special compensation for the investment advisory services;

5. A publisher, employee or columnist of a newspaper, news magazine or business or financial publication, or an owner, operator, producer or employee of a cable, radio or television network, station or production facility if, in either case, the financial or business news published or disseminated is made available to the general public and the content does not consist of rendering advice on the basis of the specific investment situation of each client;

6. A person whose advice, analyses or reports relate only to securities exempt under paragraph (a) of subsection 2 of NRS 90.520; ~~for~~

7. *A family trust company or licensed family trust company or an employee or agent of a family trust company or licensed family trust company that is engaged in the business of a family trust company or licensed family trust company pursuant to chapter 669A of NRS ~~for~~, and that is exempt from registration as an investment adviser pursuant to the federal Investment Advisers Act of 1940; or*

8. Any other person the Administrator by regulation or order designates.

Sec. 15. NRS 164.740 is hereby amended to read as follows:

164.740 ~~{A}~~ *Except as otherwise provided in chapter 669A of NRS, a trustee who invests and manages trust property owes a duty to the beneficiaries of the trust to comply with the prudent investor rule as set forth in NRS 164.700 to 164.775, inclusive, but a trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the terms of the trust.*

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 193 to Senate Bill No. 259 adds family trust companies to the provisions of the bill regarding licensed family trust companies.

The amendment deletes provisions that exempt licensed family trusts from compliance with certain statutory requirements. It also deletes provisions authorizing a licensed family trust that is the fiduciary of trust from administering the trust in a jurisdiction outside of this state.

The amendment authorizes a trustee to provide certain accounting information to an interested person in lieu of providing an annual report.

Finally, the amendment defines certain terms relating to securities and investments.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 273.

Bill read second time.

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

Amendment No. 194.

"SUMMARY—Revises various provisions governing the practice of osteopathic medicine. (BDR 54-959)"

"AN ACT relating to osteopathic medicine; authorizing an osteopathic physician to engage in telemedicine under certain circumstances; authorizing the State Board of Osteopathic Medicine to place any condition, limitation or restriction on a license under certain circumstances; requiring an osteopathic physician who performs an autopsy to submit a written report of the findings of the autopsy to the Board under certain circumstances; requiring the Board to submit to the Governor and to the Director of the Legislative Counsel Bureau certain reports compiling disciplinary action taken by the Board against physician assistants; revising provisions governing applications for licensure by the Board; **revising provisions governing the requirements for licensure by the Board;** revising certain provisions relating to the renewal of a license ~~to practice osteopathic medicine;~~ **by the Board; revising provisions relating to certain continuing education requirements for licensees;** authorizing the Board to prorate the initial license fee for certain licenses; expanding the authority of the Board to discipline a physician assistant for certain conduct; revising provisions requiring certain persons to report information relating to certain malpractice claims to the Board; expanding the authority of the Board to investigate a physician assistant for certain conduct; revising provisions governing certain complaints filed with the Board; authorizing the Board summarily to suspend the license of a physician assistant under certain circumstances; authorizing the Board to seek injunctive relief against an osteopathic physician or physician assistant for engaging in certain conduct; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State Board of Osteopathic Medicine to issue, renew and suspend a license to practice osteopathic medicine and to issue and renew a license to practice as a physician assistant in this State. (NRS 633.305-633.501)

Section 2 of this bill authorizes an osteopathic physician to engage in telemedicine if the osteopathic physician is properly licensed and meets certain other criteria. **Section 34** of this bill authorizes the Board to seek injunctive relief against an osteopathic physician for engaging in telemedicine without a required license. **Section 3** of this bill authorizes the Board to place any condition, limitation or restriction on a license issued by the Board under certain circumstances. **Section 4** of this bill requires an osteopathic physician who performs an autopsy and who determines that the death of the decedent is the result of an overdose of a controlled substance or dangerous drug to submit a written report of such findings to the Board.

Section 6 of this bill expands the scope of unprofessional conduct, which is subject to regulation by the Board, to include certain actions of a physician assistant. **Section 9** of this bill authorizes the Board to reject an application for licensure as an osteopathic physician or physician assistant if the Board

has cause to believe that information submitted with the application by the applicant is false, misleading, deceptive or fraudulent. **Section 9.5 of this bill revises provisions governing the requirements for licensure by the Board.** Section 11 of this bill authorizes an osteopathic physician to apply for another temporary license after the expiration of one such license. Section 14 of this bill authorizes the Board to prorate the initial license fee for a new license to practice as an osteopathic physician and physician assistant. **Sections 11.7 and 13 of this bill require a physician assistant to meet certain continuing education requirements before renewing his or her license to practice as a physician assistant in this State.** Section 12 of this bill shortens certain procedural deadlines with respect to the renewal of a license to practice osteopathic medicine ~~or~~ **or a license to practice as a physician assistant.** Sections 15 and 29 of this bill expand the scope of the authority of the Board to discipline a physician assistant.

Sections 16, 17 and 21 of this bill require the reporting of information relating to certain malpractice claims to the Board, and sections 20 and 21 of this bill expand the scope of certain reporting requirements to include the conduct or investigation of physician assistants. Sections 17 and 29 also expand the applicability of certain administrative fines imposed by the Board.

Sections 19, 22 and 23 of this bill authorize the Board to order a physician assistant to undergo a competency examination under certain circumstances. Section 24 of this bill authorizes the immediate suspension of the license of a physician assistant under certain circumstances. Sections 26 and 34 of this bill authorize the Board to seek injunctive relief against a physician assistant for certain conduct. Section 36 of this bill provides that a person who practices as a physician assistant without a valid license or uses the identity of another person to do so is guilty of a category D felony.

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

Section 1. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *An osteopathic physician may engage in telemedicine in this State if he or she possesses an unrestricted license to practice osteopathic medicine in this State pursuant to this chapter. If an osteopathic physician engages in telemedicine with a patient who is physically located in another state or territory of the United States, the osteopathic physician shall, before engaging in telemedicine with the patient, take any steps necessary to be authorized or licensed to practice osteopathic medicine in the other state or territory of the United States in which the patient is physically located.*

2. *Except as otherwise provided in subsections 3 and 4, before an osteopathic physician may engage in telemedicine pursuant to this section:*

(a) A bona fide relationship between the osteopathic physician and the patient must exist which must include, without limitation, a history and

physical examination or consultation which occurred in person and which was sufficient to establish a diagnosis and identify any underlying medical conditions of the patient.

(b) The osteopathic physician must obtain informed, written consent from the patient or the legal representative of the patient to engage in telemedicine with the patient. The osteopathic physician shall maintain the consent form as part of the permanent medical record of the patient.

(c) The osteopathic physician must inform the patient, both orally and in writing:

(1) That the patient or the legal representative of the patient may withdraw the consent provided pursuant to paragraph (b) at any time;

(2) Of the potential risks, consequences and benefits of telemedicine;

(3) Whether the osteopathic physician has a financial interest in the Internet website used to engage in telemedicine or in the products or services provided to the patient via telemedicine;

(4) That the transmission of any confidential medical information while engaged in telemedicine is subject to all applicable federal and state laws with respect to the protection of and access to confidential medical information; and

(5) That the osteopathic physician will not release any confidential medical information without the express, written consent of the patient or the legal representative of the patient.

3. An osteopathic physician is not required to comply with the provisions of paragraph (a) of subsection 2 if the osteopathic physician engages in telemedicine for the purposes of making a diagnostic interpretation of a medical examination, study or test of the patient.

4. An osteopathic physician is not required to comply with the provisions of paragraph (a) or (c) of subsection 2 in an emergency medical situation.

5. The provisions of this section must not be interpreted or construed to:

(a) Modify, expand or alter the scope of practice of an osteopathic physician pursuant to this chapter; or

(b) Authorize the practice of osteopathic medicine or delivery of care by an osteopathic physician in a setting that is not authorized by law or in a manner that violates the standard of care required of an osteopathic physician pursuant to this chapter.

6. As used in this section, "telemedicine" means the practice of osteopathic medicine through the synchronous or asynchronous transfer of medical data or information using interactive audio, video or data communication, other than through a standard telephone, facsimile transmission or electronic mail message.

Sec. 3. 1. The Board may place any condition, limitation or restriction on any license issued pursuant to this chapter if the Board

determines that such action is necessary to protect the public health, safety or welfare.

2. The Board shall not report any condition, limitation or restriction placed on a license pursuant to this section to the National Practitioner Data Bank unless the licensee fails to comply with the condition, limitation or restriction placed on the license. The Board may, upon request, report any such information to an agency of another state which regulates the practice of osteopathic medicine in that State.

3. The Board may modify any condition, limitation or restriction placed on a license pursuant to this section if the Board determines that the modification is necessary to protect the public health, safety or welfare.

4. Any condition, limitation or restriction placed on a license pursuant to this section is not a disciplinary action pursuant to NRS 633.651.

Sec. 4. 1. *Any osteopathic physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.*

2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any osteopathic physician contributed to the death of the decedent.

3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.

Sec. 5. NRS 633.071 is hereby amended to read as follows:

633.071 "Malpractice" means failure on the part of an osteopathic physician *or physician assistant* to exercise the degree of care, diligence and skill ordinarily exercised by osteopathic physicians *or physician assistants* in good standing in the community in which he or she practices.

Sec. 6. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine *or to practice as a physician assistant*, or in applying for the renewal of a license to practice osteopathic medicine ~~{}~~ *or to practice as a physician assistant*.

(b) Failure of a ~~{licensee of the}~~ *person who is licensed to practice* ~~{of}~~ osteopathic medicine to ~~{designate his or her school of practice in the professional use of his or her name by}~~ *identify himself or herself professionally by using* the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a

person to communicate with an osteopathic physician in his or her professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine ~~or~~ **or in practice as a physician assistant**, or the aiding or abetting of any unlicensed person to practice osteopathic medicine ~~or~~ **or to practice as a physician assistant**.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body, other than the use of silicone oil to repair a retinal detachment.

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

(r) Providing false, misleading or deceptive information to the Board in connection with an investigation conducted by the Board.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership

under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each ~~of~~ **person**; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 7. NRS 633.221 is hereby amended to read as follows:

633.221 ~~1.~~ The Board shall elect from its members a President, a Vice President and a Secretary-Treasurer, who shall hold their respective offices at ~~its~~ **the** pleasure ~~of~~

~~2.—The Board may fix and pay a salary to the Secretary-Treasurer.~~ **of the Board.**

Sec. 8. NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians **and physician assistants** for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and 4 of NRS 633.533 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

Sec. 9. NRS 633.305 is hereby amended to read as follows:

633.305 1. Every applicant for a license shall:

(a) File an application with the Board in the manner prescribed by regulations of the Board;

(b) Submit verified proof satisfactory to the Board that the applicant meets any age, citizenship and educational requirements prescribed by this chapter; and

(c) Pay in advance to the Board the application and initial license fee specified in ~~[this chapter.]~~ **NRS 633.501.**

2. An application filed with the Board pursuant to subsection 1 must include all information required to complete the application.

3. The Board may hold hearings and conduct investigations into any matter related to the application and, in addition to the proofs required by subsection 1, may take such further evidence and require such other documents or proof of qualifications as it deems proper.

4. The Board may reject an application if ~~[it appears]~~ **the Board has cause to believe** that any credential **or information** submitted **by the applicant** is false ~~[,]~~ **, misleading, deceptive or fraudulent.**

Sec. 9.5. NRS 633.311 is hereby amended to read as follows:

633.311 Except as otherwise provided in NRS 633.315, an applicant for a license to practice osteopathic medicine may be issued a license by the Board if:

1. The applicant is 21 years of age or older;

2. The applicant is a citizen of the United States or is lawfully entitled to remain and work in the United States;

3. The applicant is a graduate of a school of osteopathic medicine;

4. The applicant:

(a) Has graduated from a school of osteopathic medicine before 1995 and has completed:

(1) A hospital internship; or

(2) One year of postgraduate training that complies with the standards of intern training established by the American Osteopathic Association;

(b) Has completed 3 years **, or such other length of time as required by a specific program,** of postgraduate medical education as a resident in the United States or Canada in a program approved by the Board, the Bureau of Professional Education of the American Osteopathic Association or the Accreditation Council for Graduate Medical Education; or

(c) Is a resident who is enrolled in a postgraduate training program in this State, has completed 24 months of the program and has committed, in writing, that he or she will complete the program;

5. The applicant applies for the license as provided by law;

6. The applicant passes:

(a) All parts of the licensing examination of the National Board of Osteopathic Medical Examiners;

(b) All parts of the licensing examination of the Federation of State Medical Boards of the United States, Inc.;

(c) All parts of the licensing examination of the Board, a state, territory or possession of the United States, or the District of Columbia, and is certified

by a specialty board of the American Osteopathic Association or by the American Board of Medical Specialties; or

(d) A combination of the parts of the licensing examinations specified in paragraphs (a), (b) and (c) that is approved by the Board;

7. The applicant pays the fees provided for in this chapter; and

8. The applicant submits all information required to complete an application for a license.

Sec. 10. NRS 633.351 is hereby amended to read as follows:

633.351 ~~{Any}~~ **An** unsuccessful applicant may appeal to the district court to review the action of the Board, if the applicant files the appeal within ~~{6 months from}~~ **30 days after** the date ~~{of the rejection of}~~ **on which the order rejecting** the application **is issued** by the Board. Upon appeal, the applicant has the burden of showing that the action of the Board is erroneous or unlawful.

Sec. 11. NRS 633.391 is hereby amended to read as follows:

633.391 1. The Board may issue **to a qualified person** a temporary license to practice osteopathic medicine in ~~{order to authorize a}~~ **this State which authorizes the** person ~~{who is qualified to practice osteopathic medicine in this State}~~ to serve as a substitute for ~~{~~:

(a) ~~A}~~ **a** physician licensed pursuant to chapter 630 of NRS ~~{;}~~ or

~~{(b) An}~~ **an** osteopathic physician licensed pursuant to this chapter ~~{;~~

~~✓}~~ who is absent from his or her practice.

2. Each applicant for ~~{such}~~ a **temporary** license ~~{shall}~~ **issued pursuant to this section must** pay the temporary license fee specified in this chapter.

3. A temporary license to practice osteopathic medicine is valid for not more than 6 months after issuance and is not renewable. **Upon the expiration of a temporary license, an osteopathic physician may apply for a new temporary license in accordance with the provisions of this section.**

Sec. 11.3. NRS 633.400 is hereby amended to read as follows:

633.400 1. Except as otherwise provided in NRS 633.315, the Board shall, except for good cause, issue a license by endorsement to a person who has been issued a license to practice osteopathic medicine by the District of Columbia or any state or territory of the United States if:

(a) At the time the person files an application with the Board, the license is in effect and unrestricted; and

(b) The applicant:

(1) Is currently certified by either a specialty board of the American Board of Medical Specialties or a specialty board of the American Osteopathic Association, ~~{and}~~ **or** was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 5 years;

(3) Has been continuously and actively engaged in the practice of osteopathic medicine within his or her specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning a license to practice osteopathic medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him or her, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice osteopathic medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 633.311.

2. Any person applying for a license pursuant to this section shall pay in advance to the Board the application and initial license fee specified in this chapter.

3. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such action shall be deemed to be an action of the Board.

Sec. 11.5. NRS 633.434 is hereby amended to read as follows:

633.434 The Board shall adopt regulations regarding the licensure of a physician assistant, including, without limitation:

1. The educational and other qualifications of applicants.
2. The required academic program for applicants.
3. The procedures for applications for and the issuance of licenses.
4. The tests or examinations of applicants by the Board.

5. The medical services which a physician assistant may perform, except that a physician assistant may not perform osteopathic manipulative therapy or those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, doctors of Oriental medicine, podiatric physicians, optometrists and hearing aid specialists under chapters 631, 634, 634A, 635, 636 and 637A, respectively, of NRS.

~~6. The duration, renewal and termination of licenses.~~

~~7.~~ The grounds and procedures respecting disciplinary actions against physician assistants.

~~8.~~ 7. The supervision of medical services of a physician assistant by a supervising osteopathic physician.

Sec. 11.7. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection 4 and NRS 633.491, every holder of a license ~~to practice osteopathic medicine~~ issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

- (a) Applying for renewal on forms provided by the Board;
- (b) Paying the annual license renewal fee specified in this chapter;
- (c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal the holder has attended courses or programs of

continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee ~~of the practice of osteopathic medicine~~ of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine ~~or~~ or a license to practice as a physician assistant. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 12. NRS 633.481 is hereby amended to read as follows:

633.481 1. Except as otherwise provided in subsection 2, if a licensee ~~of the~~ ~~person licensed to practice~~ ~~of~~ ~~osteopathic medicine~~ fails to comply with the requirements of NRS 633.471 within ~~30~~ **10** days after the renewal date, the Board shall give ~~30~~ **15** days' notice of ~~the~~ failure to renew ~~the license~~ and of ~~the~~ ~~revocation~~ **expiration** of the license by certified mail to the licensee at the licensee's last **known** address ~~that is~~ registered with the Board. If the license is not renewed ~~before the expiration of the 30 days~~ **within 15 days after receiving** notice, the license ~~is~~ **expires** automatically ~~revoked~~ without any further notice or a hearing and the Board shall file a copy of the notice with the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

2. A licensee ~~of the~~ ~~person licensed to practice~~ ~~of~~ ~~osteopathic medicine~~ who fails to meet the continuing education requirements for license renewal may apply to the Board for a waiver of the requirements. The Board may grant a waiver for that year only if ~~it~~ **the Board** finds that the failure is due to ~~the licensee's~~ **a** disability, military service, ~~or~~ absence from the United States, or ~~to~~ circumstances beyond the control of the licensee which are deemed by the Board to excuse the failure.

3. A person whose license ~~is revoked~~ **has expired** under this section may apply to the Board for restoration of the license upon:

(a) Payment of all past due renewal fees and the late payment fee specified in ~~this chapter~~; **NRS 633.501**;

(b) Producing verified evidence satisfactory to the Board of completion of the total number of hours of continuing education required for the year preceding the renewal date and for each year succeeding the date of ~~{revocation;}~~ **expiration;**

(c) Stating under oath in writing that he or she has not withheld information from the Board which if disclosed would ~~{furnish}~~ **constitute** grounds for disciplinary action under this chapter; and

(d) Submitting ~~{all}~~ **any other** information **that is** required **by the Board** to ~~{complete the restoration of}~~ **restore** the license.

Sec. 13. NRS 633.491 is hereby amended to read as follows:

633.491 1. A licensee ~~{of the}~~ ~~*person licensed to practice*~~ ~~{of}~~ ~~*osteopathic medicine*~~ who retires from ~~{such}~~ practice ~~{need not}~~ **is not required** annually **to** renew his or her license after filing with the Board an affidavit stating the date on which he or she retired from practice and ~~{such}~~ **any other {facts} evidence that the Board may require** to verify the retirement. ~~{as the Board deems necessary.}~~

2. ~~{A retired licensee of the}~~ **An osteopathic physician or physician assistant who retires from** practice ~~{of osteopathic medicine}~~ and who desires to return to practice may apply to renew his or her license by paying all back annual license renewal fees from the date of retirement and submitting verified evidence satisfactory to the Board that the licensee has attended continuing education courses or programs approved by the Board which total:

(a) Twenty-five hours if the licensee has been retired 1 year or less.

(b) Fifty hours within 12 months of the date of the application if the licensee has been retired for more than 1 year.

3. A licensee ~~{of the}~~ ~~*person licensed to practice*~~ ~~{of}~~ ~~*osteopathic medicine*~~ who wishes to have a license placed on inactive status must provide the Board with an affidavit stating the date on which the licensee will cease the practice of osteopathic medicine **or cease to practice as a physician assistant** in Nevada and any other ~~{facts}~~ **evidence** that the Board may require. The Board shall place the license of the licensee on inactive status upon receipt of:

(a) The affidavit required pursuant to this subsection; and

(b) Payment of the inactive license fee prescribed by NRS 633.501.

4. ~~{A licensee of the practice of}~~ **An osteopathic {medicine} physician or physician assistant** whose license has been placed on inactive status:

(a) ~~{Need}~~ **Is not required to** annually renew the license.

(b) Shall annually pay the inactive license fee prescribed by NRS 633.501.

(c) Shall not ~~{engage in the}~~ practice ~~{of}~~ osteopathic medicine **or practice as a physician assistant** in this State.

5. ~~{A licensee of the practice of}~~ **An osteopathic {medicine} physician or physician assistant** whose license is on inactive status and who wishes to renew ~~{the}~~ **his or her** license to practice osteopathic medicine **or license to practice as a physician assistant** must:

(a) Provide to the Board verified evidence satisfactory to the Board of completion of the total number of hours of continuing medical education required for:

(1) The year preceding the date of the application for renewal of the license ; ~~{to practice osteopathic medicine;}~~ and

(2) Each year ~~{succeeding}~~ **after** the date the license was placed on inactive status.

(b) Provide to the Board an affidavit stating that the applicant has not withheld from the Board any information which would ~~{provide}~~ **constitute** grounds for disciplinary action pursuant to this chapter.

(c) Comply with all other requirements for renewal.

Sec. 14. NRS 633.501 is hereby amended to read as follows:

633.501 ~~{The}~~

1. Except as otherwise provided in subsection 2, the Board shall charge and collect fees not to exceed the following amounts:

~~{1-}~~ (a) Application and initial license fee for an osteopathic physician.....	\$800
~~{2-}~~ (b) Annual license renewal fee for an osteopathic physician.....	500
~~{3-}~~ (c) Temporary license fee	500
~~{4-}~~ (d) Special or authorized facility license fee	200
~~{5-}~~ (e) Special event license fee.....	200
~~{6-}~~ (f) Special or authorized facility license renewal fee	200
~~{7-}~~ (g) Reexamination fee.....	200
~~{8-}~~ (h) Late payment fee	300
~~{9-}~~ (i) Application and initial license fee for a physician assistant.....	400
~~{10-}~~ (j) Annual license renewal fee for a physician assistant.....	400
~~{11-}~~ (k) Inactive license fee	200

2. The Board may prorate the initial license fee for a new license issued pursuant to paragraph (a) or (i) of subsection 1 which expires less than 6 months after the date of issuance.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting the meeting has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 15. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.
2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine ~~or~~ **or practice as a physician assistant**;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

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

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

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

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of ~~the~~ **a** license to practice osteopathic medicine **or to practice as a physician assistant** by any other jurisdiction.

4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a ~~practitioner~~ **licensee**.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of NRS 633.694.

9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This subsection applies to an owner or other principal responsible for the operation of the facility.

10. Failure to comply with the provisions of subsection 2 of NRS 633.322.

11. Signing a blank prescription form.

12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the

Board within 30 days after the date the licensee knows or has reason to know of the violation.

16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

18. *Failure to comply with the provisions of section 2 of this act.*

Sec. 16. NRS 633.526 is hereby amended to read as follows:

633.526 1. The insurer of an osteopathic physician *or physician assistant* licensed under this chapter shall report to the Board:

(a) Any action for malpractice against the osteopathic physician *or physician assistant* not later than 45 days after the osteopathic physician *or physician assistant* receives service of a summons and complaint for the action;

(b) Any claim for malpractice against the osteopathic physician *or physician assistant* that is submitted to arbitration or mediation not later than 45 days after the claim is submitted to arbitration or mediation; and

(c) Any settlement, award, judgment or other disposition of any action or claim described in paragraph (a) or (b) not later than 45 days after the settlement, award, judgment or other disposition.

2. The Board shall report any failure to comply with subsection 1 by an insurer licensed in this State to the Division of Insurance of the Department of Business and Industry. If, after a hearing, the Division of Insurance determines that any such insurer failed to comply with the requirements of subsection 1, the Division may impose an administrative fine of not more than \$10,000 against the insurer for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

Sec. 17. NRS 633.527 is hereby amended to read as follows:

633.527 1. An osteopathic physician *or physician assistant* shall report to the Board:

(a) Any action for malpractice against the osteopathic physician *or physician assistant* not later than 45 days after the osteopathic physician *or physician assistant* receives service of a summons and complaint for the action;

(b) Any claim for malpractice against the osteopathic physician *or physician assistant* that is submitted to arbitration or mediation not later than 45 days after the claim is submitted to arbitration or mediation;

(c) Any settlement, award, judgment or other disposition of any action or claim described in paragraph (a) or (b) not later than 45 days after the settlement, award, judgment or other disposition; and

(d) Any sanctions imposed against the osteopathic physician *or physician assistant* that are reportable to the National Practitioner Data Bank not later than 45 days after the sanctions are imposed.

2. If the Board finds that an osteopathic physician *or physician assistant* has violated any provision of this section, the Board may impose a fine of not more than \$5,000 against the osteopathic physician *or physician assistant* for each violation, in addition to any other fines or penalties permitted by law.

3. All reports made by an osteopathic physician *or physician assistant* pursuant to this section are public records.

Sec. 18. NRS 633.528 is hereby amended to read as follows:

633.528 If the Board receives a report pursuant to the provisions of NRS 633.526, 633.527, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against an osteopathic physician *or physician assistant* regarding an action or claim for malpractice or that such an action or claim against the osteopathic physician *or physician assistant* has been resolved by settlement, the Board shall conduct an investigation to determine whether to ~~impose disciplinary action against~~ *discipline* the osteopathic physician *or physician assistant* regarding the action or claim, unless the Board has already commenced or completed such an investigation regarding the action or claim before it receives the report.

Sec. 19. NRS 633.529 is hereby amended to read as follows:

633.529 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board receives a report pursuant to the provisions of NRS 633.526, 633.527, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against an osteopathic physician *or physician assistant* regarding an action or claim for malpractice, or that such an action or claim against the osteopathic physician *or physician assistant* has been resolved by settlement, the Board may order ~~that~~ the osteopathic physician *or physician assistant* to undergo a mental or physical examination or ~~an~~ *any other* examination ~~testing~~ *designated by the Board to test* his or her competence to practice *osteopathic medicine or to practice as a physician assistant, as applicable. An examination conducted pursuant to this subsection must be conducted* by osteopathic physicians ~~for other examinations~~ designated by the Board. ~~to assist the Board or any investigative committee of the Board in determining the fitness of the osteopathic physician to practice medicine.~~

2. For the purposes of this section:

(a) ~~Every~~ *An* osteopathic physician *or physician assistant* who applies for a license or who holds a license under this chapter ~~shall be~~ *is* deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice *osteopathic medicine* ~~when ordered to do so in writing~~ *or to practice as a physician assistant, as applicable, pursuant to a written order* by the Board.

(b) The testimony or reports of the examining osteopathic physician are not privileged communications.

Sec. 20. NRS 633.531 is hereby amended to read as follows:

633.531 1. The Board or any of its members, ~~any~~ **or a** medical review panel of a hospital or medical society, which becomes aware ~~{that any one or combination of the}~~ **of any conduct by an osteopathic physician or physician assistant that may constitute** grounds for initiating disciplinary action ~~{may exist as to a person practicing osteopathic medicine in this State}~~ shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board.

2. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 21. NRS 633.533 is hereby amended to read as follows:

633.533 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against an osteopathic physician **or physician assistant** on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing osteopathic medicine **or practicing as a physician assistant** in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall **file a written** report ~~{to}~~ **with** the Board **of** any change in ~~{an osteopathic physician's}~~ **the** privileges **of an osteopathic physician to practice osteopathic medicine or a physician assistant to practice as a physician assistant** while the osteopathic physician **or physician assistant** is under investigation, and the outcome of any disciplinary action taken by ~~{that}~~ **the** facility or society against the osteopathic physician **or physician assistant** concerning the care of a patient or the competency of the osteopathic physician **or physician assistant**, within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the **Health** Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the **Health** Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that an osteopathic physician or physician assistant:

- (a) Is ~~{a person with mental illness;}~~ **mentally ill;**
- (b) Is ~~{a person with mental incompetence;}~~ **mentally incompetent;**
- (c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;
- (d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or
- (e) Is liable for damages for malpractice or negligence,
 ↳ within 45 days after ~~{such a}~~ **the** finding, judgment or determination . ~~{is made.}~~

5. On or before January 15 of each year, the clerk of every court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding osteopathic physicians **and physician assistants** pursuant to paragraph (e) of subsection 4.

Sec. 22. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician **or physician assistant** has raised a reasonable question as to his or her competence to practice osteopathic medicine **or to practice as a physician assistant, as applicable,** with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician **or physician assistant** to submit to a mental or physical examination **conducted** by physicians designated by the Board. If the osteopathic physician **or physician assistant** participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician **or physician assistant** in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's **or physician assistant's** alcohol or drug dependence or any other impairment.

2. For the purposes of this section:

(a) ~~{Every}~~ **An osteopathic physician or physician assistant** who is licensed under this chapter **and** who accepts the privilege of practicing osteopathic medicine **or practicing as a physician assistant** in this State ~~{shall be}~~ **is** deemed to have given consent to submit to a mental or physical examination ~~{if directed to do so in writing}~~ **pursuant to a written order** by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of ~~{a}~~ **an osteopathic physician or physician assistant** who is

licensed under this chapter to submit to an examination ~~if directed as provided in~~ **pursuant to** this section constitutes an admission of the charges against the **osteopathic physician ~~or~~ physician assistant**.

Sec. 23. NRS 633.571 is hereby amended to read as follows:

633.571 Notwithstanding the provisions of chapter 622A of NRS, if the Board has reason to believe that the conduct of any osteopathic physician **or physician assistant** has raised a reasonable question as to his or her competence to practice osteopathic medicine **or to practice as a physician assistant, as applicable**, with reasonable skill and safety to patients, the Board may ~~cause a medical competency examination of~~ **require** the **osteopathic physician or physician assistant to submit to an examination** for the purposes of determining his or her ~~fitness~~ **competence** to practice osteopathic medicine **or to practice as a physician assistant, as applicable**, with reasonable skill and safety to patients.

Sec. 24. NRS 633.581 is hereby amended to read as follows:

633.581 1. If an investigation by the Board ~~regarding~~ **of** an osteopathic physician **or physician assistant** reasonably determines that the health, safety or welfare of the public or any patient served by the osteopathic physician **or physician assistant** is at risk of imminent or continued harm, the Board may summarily suspend the license of the osteopathic physician ~~or~~ **physician assistant**. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of an osteopathic physician **or physician assistant** pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the date on which the Board issues the order summarily suspending the license unless the Board and the licensee mutually agree to a longer period.

3. Notwithstanding the provisions of chapter 622A of NRS, if the Board issues an order summarily suspending the license of an osteopathic physician **or physician assistant** pending ~~proceedings~~ **a proceeding** for disciplinary action and requires the **osteopathic physician or physician assistant** to submit to a mental or physical examination or a medical competency examination, the examination ~~shall~~ **must** be conducted and the results **must be** obtained not later than 60 days after the Board issues ~~its~~ **the** order.

Sec. 25. NRS 633.591 is hereby amended to read as follows:

633.591 Notwithstanding the provisions of chapter 622A of NRS, if the Board issues an order summarily suspending the license of an osteopathic physician **or physician assistant** pending proceedings for disciplinary action, including, without limitation, a summary suspension pursuant to NRS 233B.127, the court shall not stay that order unless the Board fails to institute and determine such proceedings as promptly as the requirements for investigation of the case reasonably allow.

Sec. 26. NRS 633.601 is hereby amended to read as follows:

633.601 1. In addition to any other remedy provided by law, the Board, through ~~{its President or Secretary}~~ **an officer of the Board** or the Attorney General, may apply to any court of competent jurisdiction to enjoin any unprofessional conduct of an osteopathic physician **or physician assistant** which is harmful to the public or to limit the ~~{physician's}~~ practice **of the osteopathic physician or physician assistant** or suspend his or her license to practice **osteopathic medicine or to practice as a physician assistant, as applicable**, as provided in this section.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for such purposes:

(a) Without proof of actual damage sustained by any person, this provision being a preventive as well as punitive measure; and

(b) Pending proceedings for disciplinary action by the Board. Notwithstanding the provisions of chapter 622A of NRS, such proceedings shall be instituted and determined as promptly as the requirements for investigation of the case reasonably allow.

Sec. 27. NRS 633.631 is hereby amended to read as follows:

633.631 Except as otherwise provided in chapter 622A of NRS:

1. Service of process made under this chapter ~~{shall}~~ **must** be either personal or by registered or certified mail with return receipt requested, addressed to the osteopathic physician **or physician assistant** at his or her last known address, as indicated ~~{on}~~ **in** the records of the Board . ~~{if possible.}~~ If personal service cannot be made and if mail notice is returned undelivered, the Secretary of the Board shall cause **a** notice of hearing to be published once a week for 4 consecutive weeks in a newspaper published in the county of the ~~{physician's}~~ last known address **of the osteopathic physician or physician assistant** or, if no newspaper is published in that county, ~~{then}~~ in a newspaper widely distributed in that county.

2. Proof of service of process or publication of notice made under this chapter ~~{shall}~~ **must** be filed with the Secretary of the Board and ~~{shall}~~ **must** be recorded in the minutes of the Board.

Sec. 28. NRS 633.641 is hereby amended to read as follows:

633.641 Notwithstanding the provisions of chapter 622A of NRS, in any disciplinary proceeding before the Board, a hearing officer or a panel:

1. Proof of actual injury need not be established where the formal complaint charges deceptive or unethical professional conduct or medical practice harmful to the public.

2. A certified copy of the record of a court or a licensing agency showing a conviction or the suspension or revocation of a license to practice osteopathic medicine **or to practice as a physician assistant** is conclusive evidence of its occurrence.

Sec. 29. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine **or to practice as a physician assistant** for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine ~~or~~ **to practice as a physician assistant**.

(f) Impose a fine not to exceed \$5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➤ The order of the Board may contain any other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

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

Sec. 30. NRS 633.671 is hereby amended to read as follows:

633.671 1. Any person who has been placed on probation or whose license has been limited, suspended or revoked by the Board is entitled to judicial review of the Board's order as provided by law.

2. Every order of the Board which limits the practice of *osteopathic medicine or the practice of a physician assistant* or suspends or revokes a license is effective from the date ~~{the Secretary certifies}~~ **on which the order is issued by the Board** until the date the order is modified or reversed by a final judgment of the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 31. NRS 633.681 is hereby amended to read as follows:

633.681 1. Any person:

(a) Whose practice of osteopathic medicine **or practice as a physician assistant** has been limited; or

(b) Whose license to practice osteopathic medicine **or to practice as a physician assistant** has been:

(1) Suspended until further order; or

(2) Revoked,

↪ may apply to the Board after a reasonable period for removal of the limitation or suspension or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of the revoked license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination by physicians whom it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

Sec. 32. NRS 633.691 is hereby amended to read as follows:

633.691 1. In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, an employee or volunteer of a diversion program specified in NRS 633.561, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician **or physician assistant** for gross malpractice, malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted in good faith.

2. The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against an osteopathic physician **or physician assistant** for:

(a) Disclosing to a governmental entity a violation of a law, rule or regulation by an applicant for a license to practice osteopathic medicine **or to practice as a physician assistant, or** by an osteopathic physician ~~or~~ **or physician assistant**; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

3. As used in this section, "governmental entity" includes, without limitation:

(a) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(b) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(c) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(d) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(e) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

Sec. 33. NRS 633.701 is hereby amended to read as follows:

633.701 The filing and review of a complaint and any subsequent disposition by the Board, the member designated by the Board to review a complaint pursuant to NRS 633.541 or any reviewing court do not preclude:

1. Any measure by a hospital or other institution to limit or terminate the privileges of an osteopathic physician *or physician assistant* according to its rules or the custom of the profession. No civil liability attaches to any such action taken without malice even if the ultimate disposition of the complaint is in favor of the *osteopathic* physician ~~[-] or physician assistant.~~

2. Any appropriate criminal prosecution by the Attorney General or a district attorney based upon the same or other facts.

Sec. 34. NRS 633.711 is hereby amended to read as follows:

633.711 1. The Board, through ~~its President or Secretary~~ *an officer of the Board* or the Attorney General, may maintain in any court of competent jurisdiction a suit for an injunction against any person ~~practicing~~ :

(a) *Practicing* osteopathic medicine *or practicing as a physician assistant* without a *valid* license to practice osteopathic medicine ~~valid under this chapter~~ *or to practice as a physician assistant; or*

(b) *Engaging in telemedicine without a valid license pursuant to section 2 of this act.*

2. ~~Such an~~ *An* injunction ~~[-] issued pursuant to subsection 1:~~

(a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

(b) ~~Shall~~ *Must* not relieve such person from criminal prosecution for practicing without such a license.

Sec. 35. NRS 633.721 is hereby amended to read as follows:

633.721 In a criminal complaint charging any person with practicing osteopathic medicine *or practicing as a physician assistant* without a *valid* license ~~to practice osteopathic medicine~~ *issued by the Board*, it is sufficient to charge that the person did, upon a certain day, and in a certain county of this State, engage in ~~the~~ *such* practice ~~of osteopathic medicine~~ without having a valid license to do so, without averring any further or more particular facts concerning the violation.

Sec. 36. NRS 633.741 is hereby amended to read as follows:

633.741 A person who:

1. Except as otherwise provided in NRS 629.091, practices ~~osteopathic~~ :

(a) *Osteopathic* medicine ~~[-]~~

(a) ~~Without~~ *without* a *valid* license to practice osteopathic medicine ~~valid~~ under this chapter; ~~or~~

(b) *As a physician assistant without a valid license under this chapter;*
or

(c) Beyond the limitations ordered upon his or her practice by the Board or the court;

2. Presents as his or her own the diploma, license or credentials of another;

3. Gives either false or forged evidence of any kind to the Board or any of its members in connection with an application for a license;

4. Files for record the license issued to another, falsely claiming himself or herself to be the person named in the license, or falsely claiming himself or herself to be the person entitled to the license;

5. Practices osteopathic medicine *or practices as a physician assistant* under a false or assumed name or falsely personates another licensee of a like or different name;

6. Holds himself or herself out as a physician assistant or who uses any other term indicating or implying that he or she is a physician assistant, unless the person has been licensed by the Board as provided in this chapter; or

7. Supervises a person as a physician assistant before such person is licensed as provided in this chapter,

➡ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 37. Section 121 of chapter 413, Statutes of Nevada 2007, as amended by chapter 369, Statutes of Nevada 2009, at page 1856, and chapter 494, Statutes of Nevada 2009, at page 2999, is hereby amended to read as follows:

Sec. 121. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 42.3, inclusive, and 43 to 120, inclusive, of this act become effective:

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

(b) On January 1, 2008, for all other purposes.

3. ~~{Sections}~~ **Section** 11 ~~{and 25}~~ of this act ~~{expire}~~ **expires** by limitation on January 1, 2012.

4. Section 42.3 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

➡ are repealed by the Congress of the United States.

5. Section 42.7 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 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.

6. Sections 42.7 and 55.5 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

↪ are repealed by the Congress of the United States.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 194 to Senate Bill No. 273 makes changes to the requirements for post-graduate medical training required for licensure to practice osteopathic medicine.

It also modifies the requirements for licensure by endorsement to practice osteopathic medicine.

The amendment requires osteopathic physician assistants to complete annual continuing medical education courses as a condition of license renewal.

The amendment clarifies that certain statutes relating to osteopathic physicians also apply to osteopathic physician assistants.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 281.

Bill read second time and ordered to third reading.

Senate Bill No. 288.

Bill read second time.

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

Amendment No. 208.

"SUMMARY—Revises provisions governing renewable energy. (BDR 58-1026)"

"AN ACT relating to energy; revising the **capacity goal and** prospective expiration of the Waterpower Energy Systems Demonstration Program; **expanding the Program to include Indian tribes and tribal organizations that are customers of a utility**; revising provisions governing net metering systems that use waterpower to generate electricity; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill expands the Waterpower Energy Systems Demonstration Program to include Indian tribes and tribal organizations that are customers of a utility. Sections ~~11~~ 2 and ~~3-5~~ 9-11 of this bill extend the prospective expiration of the ~~Waterpower Energy Systems Demonstration~~ Program. Section 2 also expands the capacity goal of the Program from 500 kilowatts to 5 megawatts.

Net metering measures the difference between the electricity supplied by a utility to a customer-generator and the electricity generated by a renewable energy system of the customer-generator which is fed back to the utility. Under existing law, an electric utility is required to offer net metering to customer-generators until the cumulative capacity of all net metering systems within the service area of the utility is equal to 1 percent of the utility's peak capacity. Existing law also requires that a net metering system be located on the premises of the customer-generator. (NRS 704.771, 704.773) **Section ~~24~~ 6** of this bill removes the requirement that a net metering system be located on the premises of the customer-generator, if the system uses waterpower as its primary source of energy to generate electricity intended primarily to offset part or all of the customer-generator's requirements for electricity on the property of the customer-generator on which the net metering system is located or on contiguous property owned by the customer-generator.

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

Section 1. NRS 701B.820 is hereby amended to read as follows:

701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for ~~agricultural~~ :

(a) Agricultural uses ~~11~~ ; and

(b) Indian tribes and tribal organizations that are customers of a utility.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4, apply to a utility and be selected by the utility for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

~~Section 11~~ **Sec. 2.** NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than ~~{500 kilowatts}~~ **5 megawatts** of waterpower energy systems in this State by ~~{2012}~~ ~~{2014}~~ **2016** and the goals for each category of the Program. **The regulations must provide that not less than 1 megawatt of capacity must be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.**

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings. **The regulations must provide that the amount of any rebate provided pursuant to the Program must not exceed 50 percent of the total cost of the installation of the waterpower energy system for which the rebate is provided.**

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 3. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

"Contiguous" means either abutting directly on the boundary or separated by a street, alley, public right-of-way, creek, river or the right-of-way of a railroad or other public service corporation.

Sec. 4. NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, **and section 3 of this act** to:

1. Encourage private investment in renewable energy resources;
2. Stimulate the economic growth of this State;
3. Enhance the continued diversification of the energy resources used in this State; and
4. Streamline the process for customers of a utility to apply for and install net metering systems.

Sec. 5. NRS 704.767 is hereby amended to read as follows:

704.767 As used in NRS 704.766 to 704.775, inclusive, **and section 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 704.768 to 704.772, inclusive, **and section 3 of this act** have the meanings ascribed to them in those sections.

~~{Sec. 2.}~~ **Sec. 6. NRS 704.771 is hereby amended to read as follows:**

704.771 1. "Net metering system" means ~~{a}~~ :

(a) A facility or energy system for the generation of electricity that:

~~{(a)}~~ (1) Uses renewable energy as its primary source of energy to generate electricity;

~~{(b)}~~ (2) Has a generating capacity of not more than 1 megawatt;

~~{(c)}~~ (3) Is located on the customer-generator's premises;

~~{(d)}~~ (4) Operates in parallel with the utility's transmission and distribution facilities; and

~~{(e)}~~ (5) Is intended primarily to offset part or all of the customer-generator's requirements for electricity ~~{H}~~; or

(b) A facility or energy system for the generation of electricity that:

(1) Uses waterpower as its primary source of energy to generate electricity;

(2) Is located on property owned by the customer-generator;

(3) Has a generating capacity of not more than 1 megawatt;

(4) Generates electricity that is delivered to the transmission and distribution facilities of the utility; and

(5) Is intended primarily to offset part or all of the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

Sec. 7. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 100 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 100 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers

of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

➔ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. ***If the net metering system of a customer-generator is a net metering system described in paragraph (b) of subsection 1 of NRS 704.771 and:***

(a) The system is intended primarily to offset part or all of the customer-generators requirements for electricity on property contiguous to the property on which the net metering system is located; and

(b) The customer-generator sells or transfers his or her interest in the contiguous property,

➔ the net metering system ceases to be eligible to participate in net metering.

5. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

- (1) Metering equipment;
- (2) Net energy metering and billing; and
- (3) Interconnection,

➔ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive ~~11~~, ***and section 3 of this act.***

Sec. 8. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that uses renewable energy or energy from a qualified energy recovery process to generate electricity and:

(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process to a provider of electric service for delivery into and use in this State.

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive ~~††, and section 3 of this act.~~

~~†Sec. 3.†~~ **Sec. 9.** Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to ~~†106,†~~ **86**, inclusive, of this act expire by limitation on June 30, 2011.

3. Sections 87 to 105, inclusive, of this act expire by limitation on June 30, ~~†2013.†~~ 2016.

~~†Sec. 4.†~~ **Sec. 10.** Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. ~~†Sections 2 and 3.†~~ **Section 2** of this act ~~†expire†~~ **expires** by limitation on June 30, 2011.

3. **Section 3 of this act expires by limitation on June 30, ~~†2013.†~~ 2016.**

~~†Sec. 5.†~~ **Sec. 11.** Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.92, 1.93 ~~†1.95,†~~ **and 4.3 to 19.7**, inclusive, ~~†and 19.4.†~~ of this act expire by limitation on June 30, 2011.

3. ~~†Sections 1.53 and 19.8.†~~ **Section 1.53** of this act ~~†become†~~ **becomes** effective on July 1, 2011.

4. **Sections 1.95 and 7.1 to 9, inclusive, of this act expire by limitation on June 30, ~~†2013.†~~ 2016.**

5. **Section 19.8 of this act becomes effective on July 1, ~~†2013.†~~ 2016.**

~~{Sec. 6.}~~ **Sec. 12.** 1. This section and sections ~~{3, 4 and 5}~~ **9, 10 and 11** of this act become effective upon passage and approval.

2. ~~{Section}~~ **Sections 1 and 2** of this act ~~{becomes}~~ **become** effective on July 1, 2011, and ~~{expires}~~ **expire** by limitation on June 30, ~~{2013.}~~ **2016.**

3. ~~{Section 2}~~ **Sections 3 to 8, inclusive,** of this act ~~{becomes}~~ **become** effective on July 1, 2011.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 208 to Senate Bill No. 288 includes Indian tribes and tribal organizations in the Waterpower Energy Systems Demonstration Program.

It also expands the capacity of the program to five watts. At least one megawatt of that amount must be allotted to systems with a capacity of 100 kilowatts or less.

Rebates under the program may not exceed 50 percent of the total cost of a system.

The amendment defines the term "contiguous" for purposes of participation in the net metering program and amends the net metering program to accommodate certain systems serving contiguous property.

Finally, the amendment extends the expiration date of the Waterpower Program until 2016.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 294.

Bill read second time.

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

Amendment No. 214.

"SUMMARY—Establishes provisions governing medical assistants. (BDR 40-16)"

"AN ACT relating to public health; revising provisions governing persons authorized to possess and administer dangerous drugs; ~~{requiring physicians to notify the Board of Medical Examiners or State Board of Osteopathic Medicine of the employment status of medical assistants;}~~ revising provisions regarding certain acts of physicians; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the exclusive list of persons who may possess and administer dangerous drugs in this State. (NRS 454.213) **Sections 1 and 7** of this bill authorize medical assistants, under the supervision of a physician ~~{}~~ **or physician assistant,** to possess and administer dangerous drugs ~~{}~~ **under certain circumstances. Section 1 also authorizes a veterinary assistant, at the direction of a supervising veterinarian, to possess and administer dangerous drugs.**

Sections 4 and 10 of this bill authorize ~~{a physician to employ a medical assistant and require the physician to notify}~~ the Board of Medical Examiners ~~{or}~~ **and** the State Board of Osteopathic Medicine ~~{, as applicable, that the physician has employed a medical assistant. Sections 4 and 10 also require}~~

~~the Boards]~~ to adopt regulations relating to the ~~[employment and]~~ supervision of medical assistants, including limitations on the possession and administration of dangerous drugs.

Sections 6 and 12 of this bill provide that failure to supervise adequately a medical assistant is grounds for disciplinary action.

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

Section 1. NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.
2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

- (a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

- (b) Acting under the direction of the medical director of that agency or facility who works in this State.

5. Except as otherwise provided in subsection 6, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

- (a) The State Board of Health in a county whose population is less than 100,000;

- (b) A county board of health in a county whose population is 100,000 or more; or

- (c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

6. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

7. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

8. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

9. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

↪ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

10. Any person designated by the head of a correctional institution.

11. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

12. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

14. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

15. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician or a veterinary assistant at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards ~~for~~ for Immunization Practices" recommended and approved by the ~~United States Public Health Service~~ Advisory Committee on Immunization Practices.

19. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

20. *A medical assistant, in accordance with applicable regulations of the:*

(a) *Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of ~~the~~ a physician ~~who employs the medical assistant pursuant to section 4 of this act.~~ or physician assistant.*

(b) *State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of ~~the~~ a physician ~~who employs the medical assistant pursuant to section 10 of this act.~~ or physician assistant.*

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. *"Medical assistant" means a person who:*

(a) ~~Is employed by a physician to perform~~ **Performs clinical tasks under the supervision of a physician ~~or~~ or physician assistant;** and

(b) *Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.*

2. *The term does not include a person who ~~is employed by a physician to perform~~ performs only administrative, clerical, executive or other nonclinical tasks.*

Sec. 4. ~~1. A physician may employ or supervise a medical assistant.~~

~~2. A physician who employs a medical assistant shall:~~

~~(a) Notify the Board within 30 days after employing or terminating the employment of a medical assistant.~~

~~(b) Provide adequate supervision for the medical assistant.~~

~~3. The Board shall:~~

~~(a) Maintain a registry of medical assistants employed by each physician;~~

~~(b) Prescribe the form and content of the notice required pursuant to subsection 2; and~~

~~(c) Adopt~~ **may adopt regulations governing the [employment and] supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.**

Sec. 5. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, ***and section 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another

state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

13. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

17. *Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.*

Sec. 7. NRS 630.369 is hereby amended to read as follows:

630.369 1. A person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a prescription drug unless :
~~the~~

(a) The person administers the injection under the supervision of a physician and:

~~(a)~~ ***(1)*** The person is licensed or certified to perform medical services pursuant to this title ;

~~(b) The ; and the~~

(2) The administration of the injection is within the scope of the person's license or certificate; ~~and~~

~~(c) The person administers the injection under the supervision of a physician.} or~~

(b) The person administers the injection under the supervision of a physician or physician assistant and:

(1) The person is a medical assistant authorized to administer a dangerous drug pursuant to NRS 454.213 ; and the

(2) The chemotherapeutic agent is classified as a dangerous drug.

➔ The Board shall prescribe the requirements for supervision pursuant to this subsection.

2. As used in this section:

(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

(b) "Prescription drug" means:

(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and

(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.

Sec. 8. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. 1. "Medical assistant" means a person who:

~~(a) *Is employed by an osteopathic physician to perform*~~ ***Performs clinical tasks under the supervision of an osteopathic physician ~~or~~ or physician assistant; and***

~~(b) *Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.*~~

2. The term does not include a person who ~~is employed by an osteopathic physician to perform~~ performs only administrative, clerical, executive or other nonclinical tasks.

Sec. 10. ~~1. An osteopathic physician may employ or supervise a medical assistant.~~

~~2. An osteopathic physician who employs a medical assistant shall:~~

~~(a) *Notify the Board within 30 days after employing or terminating the employment of a medical assistant.*~~

~~(b) *Provide adequate supervision for the medical assistant.*~~

~~3. The Board shall:~~

~~(a) *Maintain a registry of medical assistants employed by each osteopathic physician;*~~

~~(b) *Prescribe the form and content of the notice required pursuant to subsection 2; and*~~

~~(c) *Adopt*~~ ***may adopt regulations governing the ~~employment and~~ supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.***

Sec. 11. NRS 633.011 is hereby amended to read as follows:

633.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 633.021 to 633.131, inclusive, ***and section 9 of this act*** have the meanings ascribed to them in those sections.

Sec. 12. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

- (c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
- (d) Murder, voluntary manslaughter or mayhem;
- (e) Any felony involving the use of a firearm or other deadly weapon;
- (f) Assault with intent to kill or to commit sexual assault or mayhem;
- (g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
- (h) Abuse or neglect of a child or contributory delinquency; or
- (i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of NRS 633.694.

9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➤ This subsection applies to an owner or other principal responsible for the operation of the facility.

10. Failure to comply with the provisions of subsection 2 of NRS 633.322.

11. Signing a blank prescription form.

12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state

or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

18. *Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.*

~~Sec. 13. 1. The Board of Medical Examiners shall, on or before December 31, 2011, adopt the regulations required by section 4 of this act and NRS 630.369, as amended by section 7 of this act.~~

~~2. The State Board of Osteopathic Medicine shall, on or before December 31, 2011, adopt the regulations required by section 10 of this act.]~~
(Deleted by amendment.)

Sec. 14. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 214 to Senate Bill No. 294 authorizes a medical assistant to possess and administer dangerous drugs under the supervision of a physician assistant or osteopathic physician assistant.

A veterinary assistant may do so as well, at the direction of a supervising veterinarian.

The Board of Medical Examiners and the State Board of Osteopathic Medicine may adopt regulations governing the supervision of a medical assistant, including without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.

Amendment adopted.

The following amendment was proposed by Senator Schneider:

Amendment No. 452.

"SUMMARY—Establishes provisions governing medical assistants. (BDR 40-16)"

"AN ACT relating to public health; revising provisions governing persons authorized to possess and administer dangerous drugs; requiring physicians to notify the Board of Medical Examiners or State Board of Osteopathic Medicine of the employment status of medical assistants; revising provisions regarding certain acts of physicians; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the exclusive list of persons who may possess and administer dangerous drugs in this State. (NRS 454.213) **Sections 1 and 7** of this bill authorize medical assistants, under the supervision of a physician, to possess and administer dangerous drugs.

Sections 4 and 10 of this bill authorize a physician to employ a medical assistant and require the physician to notify the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, that the physician

has employed a medical assistant. **Sections 4 and 10** also require the Boards to adopt regulations relating to the employment and supervision of medical assistants, including limitations on the possession and administration of dangerous drugs.

Sections 6 and 12 of this bill provide that failure to supervise adequately a medical assistant is grounds for disciplinary action.

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

Section 1. NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.
2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

- (a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

- (b) Acting under the direction of the medical director of that agency or facility who works in this State.

5. Except as otherwise provided in subsection 6, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

- (a) The State Board of Health in a county whose population is less than 100,000;

- (b) A county board of health in a county whose population is 100,000 or more; or

- (c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

6. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

7. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

8. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

9. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

➤ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

10. Any person designated by the head of a correctional institution.

11. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

12. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

14. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

15. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards ~~for~~ *for* Immunization Practices" recommended and approved by the ~~{United States Public Health Service}~~ Advisory Committee on Immunization Practices.

19. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

20. A medical assistant, in accordance with applicable regulations of the:

(a) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of the physician who employs the medical assistant pursuant to section 4 of this act.

(b) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of the physician who employs the medical assistant pursuant to section 10 of this act.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. "Medical assistant" means a person who:

(a) Is employed by a physician to perform clinical tasks under the supervision of a physician; and

(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.

2. The term does not include a person who is employed by a physician to perform administrative, clerical, executive or other nonclinical tasks.

Sec. 4. 1. A physician may employ or supervise a medical assistant.

2. A physician who employs a medical assistant shall:

(a) Notify the Board within 30 days after employing or terminating the employment of a medical assistant.

(b) Provide adequate supervision for the medical assistant.

3. The Board shall:

(a) Maintain a registry of medical assistants employed by each physician;

(b) Prescribe the form and content of the notice required pursuant to subsection 2; and

(c) Adopt regulations governing the employment and supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.

Sec. 5. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, **and section 3 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

13. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

17. *Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.*

Sec. 7. NRS 630.369 is hereby amended to read as follows:

630.369 1. A person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a prescription drug unless: ; ~~[the person administers the injection under the supervision of a physician and:]~~

(a) The person is licensed or certified to perform medical services pursuant to this title ~~;~~

(b) ~~The~~ **and the** administration of the injection is within the scope of the person's license or certificate; ~~and~~

(c) ~~The person administers the injection under the supervision of a physician.~~ **or**

(b) *The person is a medical assistant authorized to administer a dangerous drug pursuant to NRS 454.213, and the chemotherapeutic agent is classified as a dangerous drug and the person administers the injection under the supervision of a physician or physician assistant.*

➡ The Board shall prescribe the requirements for supervision pursuant to this subsection.

2. As used in this section:

(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

(b) "Prescription drug" means:

(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and

(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.

Sec. 8. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. 1. "Medical assistant" means a person who:

(a) Is employed by an osteopathic physician to perform clinical tasks under the supervision of an osteopathic physician; and

(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.

2. The term does not include a person who is employed by an osteopathic physician to perform administrative, clerical, executive or other nonclinical tasks.

Sec. 10. 1. An osteopathic physician may employ or supervise a medical assistant.

2. An osteopathic physician who employs a medical assistant shall:

(a) Notify the Board within 30 days after employing or terminating the employment of a medical assistant.

(b) Provide adequate supervision for the medical assistant.

3. The Board shall:

(a) Maintain a registry of medical assistants employed by each osteopathic physician;

(b) Prescribe the form and content of the notice required pursuant to subsection 2; and

(c) Adopt regulations governing the employment and supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.

Sec. 11. NRS 633.011 is hereby amended to read as follows:

633.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 633.021 to 633.131, inclusive, **and section 9 of this act** have the meanings ascribed to them in those sections.

Sec. 12. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

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

- (f) Assault with intent to kill or to commit sexual assault or mayhem;
 - (g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
 - (h) Abuse or neglect of a child or contributory delinquency; or
 - (i) Any offense involving moral turpitude.
- 3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.
 - 4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a practitioner.
 - 5. Professional incompetence.
 - 6. Failure to comply with the requirements of NRS 633.527.
 - 7. Failure to comply with the requirements of subsection 3 of NRS 633.471.
 - 8. Failure to comply with the provisions of NRS 633.694.
 - 9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:
 - (a) The license of the facility is suspended or revoked; or
 - (b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.
- This subsection applies to an owner or other principal responsible for the operation of the facility.
- 10. Failure to comply with the provisions of subsection 2 of NRS 633.322.
 - 11. Signing a blank prescription form.
 - 12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.
 - 13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.
 - 14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.
 - 15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.
 - 16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.
 - 17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

18. *Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.*

Sec. 13. 1. The Board of Medical Examiners shall, on or before December 31, 2011, adopt the regulations required by section 4 of this act and NRS 630.369, as amended by section 7 of this act.

2. The State Board of Osteopathic Medicine shall, on or before December 31, 2011, adopt the regulations required by section 10 of this act.

Sec. 14. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 452 to Senate Bill No. 294 clarifies that an advanced practitioner of nursing (APN) may inject a patient with a chemotherapeutic agent classified as a prescription drug since an APN is both licensed to perform medical services of this nature and the administration of the injection is within the scope of an APN's license. An APN does not have to perform such an injection under the supervision of a physician or physician assistant.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Cegavske has approved the addition of Senator Leslie as a sponsor of Senate Bill No. 294.

Senate Bill No. 315.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 290.

"SUMMARY—~~Authorizes the board of trustees of a school district to allow a person with certain qualifications to teach a particular course for a provisional time without licensure.~~ **Requires the Commission on Professional Standards in Education to provide for the licensure of teachers and administrators pursuant to an alternative route to licensure.** (BDR 34-819)"

"AN ACT relating to educational personnel; ~~authorizing the board of trustees of a school district to allow certain persons to teach a course within the public schools of the school district for a provisional time without a license to teach issued by the Superintendent of Public Instruction;~~ requiring the Commission on Professional Standards in Education to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Under existing law, the Superintendent of Public Instruction issues licenses to teach to applicants who satisfy the qualifications prescribed by the~~

~~Commission on Professional Standards in Education and who satisfy certain other qualifications. (NRS 391.019, 391.033) Also under existing law, an applicant for employment with a school district must, as a condition to employment, submit a complete set of his or her fingerprints for purposes of a criminal background investigation of the applicant. (NRS 391.100) Section 1 of this bill authorizes the board of trustees of a school district to, notwithstanding any other statute or regulation to the contrary, authorize a person to teach a particular course within the public schools of the school district for a provisional time without a license to teach issued by the Superintendent of Public Instruction if the board of trustees determines that the person has the necessary professional qualifications and experience to teach that course. Before such a person begins teaching, he or she must comply with the requirements for a criminal background investigation as required by other employees of the school district.]~~

Existing law requires the Commission **on Professional Standards in Education** to adopt regulations prescribing the qualifications for licensing teachers and other educational personnel in this State. The regulations govern the issuance of a regular license and a special qualifications license. (NRS 391.019) **Section 2** of this bill requires the Commission to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure and sets forth certain requirements that must be specified in those regulations, including: (1) that the required education and training may be provided by any qualified provider which has been approved by the Commission, including institutions of higher education and other providers that operate independently of an institution of higher education; (2) that the education and training required under the alternative route to licensure may be completed in 2 years or less; and (3) that, upon completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, the person must be issued a regular license.

Under existing law, the Commission is required to adopt regulations providing for the reciprocal licensure of educational personnel from other states. (NRS 391.032) **Section 5** of this bill requires the regulations governing reciprocal licensure to include reciprocal licensure of persons who obtained a license pursuant to an alternative route to licensure.

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 a new section to read as follows:

~~1. Notwithstanding the provisions of this Title or any other provision of statute or regulation to the contrary, the board of trustees of a school district may authorize a person who does not hold a license issued by the Superintendent of Public Instruction pursuant to this chapter to teach a particular course within the public schools of the school district for a~~

~~provisional time if the board of trustees determines that the person has the necessary professional qualifications and experience to teach that course.~~

~~2. Before a person begins teaching a course pursuant to subsection 1:~~

~~(a) The person must comply with the requirements of subsection 5 of NRS 391.100; and~~

~~(b) The board of trustees of the school district must review the criminal history of the person from the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation and determine that:~~

~~(1) The person has not been convicted of a felony or any offense involving moral turpitude; or~~

~~(2) In the discretion of the board of trustees, any conviction indicated in the reports on the criminal history of the person is unrelated to the position in which he or she will be employed.~~

~~3. If the board of trustees of a school district authorizes a person to teach a course pursuant to this section, the board of trustees shall fix the compensation and benefits of the person, if any, which must be fixed outside the scope of the provisions of chapter 288 of NRS.] **(Deleted by amendment.)**~~

Sec. 2. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission {:

(a) ~~Shall~~ **shall** adopt regulations:

~~{(1)}~~ **(a)** Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations ~~{must}~~ :

(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider which has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:

(I) Establish the requirements for approval as a qualified provider;

(II) Require a qualified provider to be selective in its acceptance of students;

(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;

(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;

(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure; and

(VI) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.

(2) *Must* not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

~~{(2)}~~ (b) Identifying fields of specialization in teaching which require the specialized training of teachers.

~~{(3)}~~ (c) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

~~{(4)}~~ (d) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

~~{(5)}~~ (e) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

~~{(6)}~~ (f) Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

~~{(1)}~~ (1) Provide instruction or other educational services; and

~~{(2)}~~ (2) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

~~{(7)}~~ (g) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

~~{(1)}~~ (1) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

~~{(2)}~~ (2) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

➤ An applicant for licensure pursuant to this ~~{subparagraph}~~ **paragraph** who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of

mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

~~{(8)}~~ **(h)** Requiring an applicant for a special qualifications license to:

~~{(1)}~~ **(1)** Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

~~{(2)}~~ **(2)** Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

~~{(9)}~~ **(i)** Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

~~{(10)}~~ **(j)** Providing for the issuance and renewal of a special qualifications license to an applicant who:

~~{(1)}~~ **(1)** Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

~~{(2)}~~ **(2)** Is not licensed to teach public school in another state;

~~{(3)}~~ **(3)** Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

~~{(4)}~~ **(4)** Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

➤ An applicant for licensure pursuant to this ~~{subparagraph}~~ **paragraph** is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

~~{(b) May}~~

2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.

~~{2-}~~ **3.** Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

~~{3-}~~ 4. A person who is licensed pursuant to ~~{subparagraph (7) or (10) of paragraph {(a)} (g) or (j)}~~ of subsection 1:

- (a) Shall comply with all applicable statutes and regulations.
- (b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.
- (c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 3. NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in ~~{subparagraph (10) of paragraph {(a)} (j)}~~ of subsection 1 of NRS 391.019 and NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and the applicant's knowledge of each specific subject he or she proposes to teach. Each examination must include the following subjects:

- 1. The laws of Nevada relating to schools;
- 2. The Constitution of the State of Nevada; and
- 3. The Constitution of the United States.

↪ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.

Sec. 4. NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

- 1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.
- 2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.
- 3. A license to teach secondary education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in any secondary school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the Commission adopted pursuant to ~~subparagraph (7) or (10) of~~ paragraph ~~{(a)}~~ **(g) or (j)** of subsection 1 of NRS 391.019.

Sec. 5. NRS 391.032 is hereby amended to read as follows:

391.032 1. Except as otherwise provided in NRS 391.027, the Commission shall:

(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel before completion of all courses of study or other requirements for a license in this State.

(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states ~~[-]~~, ***including, without limitation, the reciprocal licensure of persons who obtained a license pursuant to an alternative route to licensure similar to the alternative route to licensure prescribed pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019.***

2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.

3. A person who is issued a conditional license must complete all courses of study and other requirements for a license in this State which is not conditional within 3 years after the date on which a conditional license is issued.

Sec. 6. NRS 391.037 is hereby amended to read as follows:

391.037 1. The State Board shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions.

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph ~~{(7) or (10)}~~ **(1)** of paragraph (a) ***or paragraph (g) or (j)*** of subsection 1 of NRS 391.019, an applicant for a license as a teacher or administrator or to perform some other educational

function must submit with his or her application, in the form prescribed by the Superintendent of Public Instruction, proof that the applicant has satisfactorily completed a course of study and training approved by the State Board pursuant to subsection 1.

Sec. 7. The Commission on Professional Standards in Education shall, on or before December 31, 2011, adopt the regulations required by the provisions of subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019, as amended by section 2 of this act, and the regulations required by the provisions of NRS 391.032, as amended by section 5 of this act.

Sec. 8. This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 290 to Senate Bill No. 315 deletes provisions of the bill that authorized school district boards of trustees to allow a person to teach a particular course for a provisional time period without being fully licensed to teach.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 331.

Bill read second time.

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

Amendment No. 197.

"SUMMARY—Revises provisions relating to unlawful discrimination in places of public accommodation. (BDR 54-799)"

"AN ACT relating to public accommodations; revising provisions relating to unlawful discrimination based on sex and gender identity or expression in places of public accommodation; **providing that certain promotions or marketing of places of public accommodation are not unlawful or grounds for a civil action**; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Nevada has declared as its public policy the right of all people to have access to places of public accommodation without discrimination based on race, religious creed, color, age, sex, disability, sexual orientation, national origin or ancestry, and ~~section 44~~ **6** of this bill extends that public policy to discrimination based on gender identity or expression. Existing law provides that all persons have the right to full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation without discrimination or segregation based on race, color, religion, national origin, disability or sexual orientation. (NRS 651.070) ~~Section 42~~ **3** of this bill provides the same protection from discrimination or segregation based on sex or gender identity or expression in

places of public accommodation. A person who withholds, denies or deprives any other person of this right, intimidates, threatens or coerces any other person for the purpose of interfering with this right or punishes any other person for exercising this right is guilty of a misdemeanor. (NRS 651.080) **Section 1 of this bill provides that it is not unlawful or a ground for a civil action for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.**

Existing law authorizes the Nevada Equal Rights Commission to investigate practices of discrimination in places of public accommodation and authorizes a person who believes he or she has been discriminated against based on race, color, religion, national origin, disability or sexual orientation to file a complaint with the Commission. (NRS 233.150, 651.110) **Section 1 of this bill authorizes the Commission additionally to investigate practices of discrimination based on gender identity or expression. Section 4 of this bill authorizes a person who believes he or she has been discriminated against based on sex or gender identity or expression to file a complaint with the Commission. Section 5 of this bill provides that it is not an unlawful discriminatory practice in public accommodations for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.**

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

Section 1. Chapter 651 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any provision of NRS 651.050 to 651.110, inclusive, it is not unlawful and is not a ground for a civil action for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.

2. As used in this section, "place of public accommodation" has the meaning ascribed to it in NRS 651.050.

~~Section 1.~~ **Sec. 2.** NRS 651.050 is hereby amended to read as follows:

651.050 As used in NRS 651.050 to 651.110, inclusive, unless the context otherwise requires:

1. "Disability" means, with respect to a person:
 - (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;
 - (b) A record of such an impairment; or
 - (c) Being regarded as having such an impairment.
2. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***

3. "Place of public accommodation" means:

(a) Any inn, hotel, motel or other establishment which provides lodging to transient guests, except an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as the proprietor's residence;

(b) Any restaurant, bar, cafeteria, lunchroom, lunch counter, soda fountain, casino or any other facility where food or spirituous or malt liquors are sold, including any such facility located on the premises of any retail establishment;

(c) Any gasoline station;

(d) Any motion picture house, theater, concert hall, sports arena or other place of exhibition or entertainment;

(e) Any auditorium, convention center, lecture hall, stadium or other place of public gathering;

(f) Any bakery, grocery store, clothing store, hardware store, shopping center or other sales or rental establishment;

(g) Any laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, office of an accountant or lawyer, pharmacy, insurance office, office of a provider of health care, hospital or other service establishment;

(h) Any terminal, depot or other station used for specified public transportation;

(i) Any museum, library, gallery or other place of public display or collection;

(j) Any park, zoo, amusement park or other place of recreation;

(k) Any nursery, private school or university or other place of education;

(l) Any day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service establishment;

(m) Any gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation;

(n) Any other establishment or place to which the public is invited or which is intended for public use; and

(o) Any establishment physically containing or contained within any of the establishments described in paragraphs (a) to (n), inclusive, which holds itself out as serving patrons of the described establishment.

~~{3-}~~ 4. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

~~{Sec. 2-}~~ **Sec. 3.** NRS 651.070 is hereby amended to read as follows:

651.070 All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation, without discrimination or segregation on the ground of race, color, religion, national origin, disability , ~~{or}~~ sexual orientation ~~{-}~~ , ***sex, gender identity or expression.***

~~{Sec. 3-}~~ **Sec. 4.** NRS 651.110 is hereby amended to read as follows:

651.110 Any person who believes he or she has been denied full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation because of discrimination or segregation based on race, color, religion, national origin, disability , ~~for~~ sexual orientation , *sex, gender identity or expression* may file a **complaint to that effect with the Nevada Equal Rights Commission.**

Sec. 5. Chapter 233 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any provision of this chapter, it is not an unlawful discriminatory practice in public accommodations for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.

~~{Sec. 4.}~~ **Sec. 6.** NRS 233.010 is hereby amended to read as follows:

233.010 1. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek, obtain and hold employment and housing accommodations without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, national origin or ancestry.

2. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek and be granted services in places of public accommodation without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, national origin , ~~for~~ ancestry ~~[-]~~ , *gender identity or expression.*

3. It is recognized that the people of this State should be afforded full and accurate information concerning actual and alleged practices of discrimination and acts of prejudice, and that such information may provide the basis for formulating statutory remedies of equal protection and opportunity for all citizens in this State.

~~{Sec. 5.}~~ **Sec. 7.** NRS 233.020 is hereby amended to read as follows:

233.020 As used in this chapter:

1. "Administrator" means the Administrator of the Commission.
2. "Commission" means the Nevada Equal Rights Commission within the Department of Employment, Training and Rehabilitation.
3. "Disability" means, with respect to a person:
 - (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;
 - (b) A record of such an impairment; or
 - (c) Being regarded as having such an impairment.
4. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***

5. "Member" means a member of the Nevada Equal Rights Commission.

~~{5-}~~ 6. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

~~{Sec. 6-}~~ **Sec. 8.** NRS 233.150 is hereby amended to read as follows:

233.150 The Commission may:

1. Order its Administrator to:

(a) With regard to public accommodation, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, national origin , ~~{or}~~ ancestry, ***gender identity or expression*** and may conduct hearings with regard thereto.

(b) With regard to employment and housing, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, national origin or ancestry, and may conduct hearings with regard thereto.

2. Mediate between or reconcile the persons or groups involved in those tensions, practices and acts.

3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any investigations or hearings conducted by the Commission.

4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.

5. Adopt reasonable regulations necessary for the Commission to carry out the functions assigned to it by law.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 197 to Senate Bill No. 331 provides that it is not unlawful or grounds for a civil action for places of public accommodation to offer promotions such as "Ladies Night" that feature differential pricing or special offers based on gender to promote or market their business.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 360.

Bill read second time.

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

Amendment No. 340.

"SUMMARY—Revises provisions governing redevelopment agencies. (BDR 22-937)"

"AN ACT relating to redevelopment of communities; revising requirements for the submission of an employment plan; requiring a redevelopment agency to withhold a portion of any incentive provided to a developer unless the developer satisfies certain conditions; requiring the reporting of certain information relating to the redevelopment project by

certain developers; requiring an employment plan to include information relating to preferences for hiring persons from the redevelopment area; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, if a redevelopment agency provides property for development for less than the fair market value of the property or provides financial incentives of more than \$100,000 to a developer, the developer must comply with certain laws relating to the payment of a prevailing wage. (NRS 279.500) Additionally, a proposal for a redevelopment project must include an employment plan, if appropriate. (NRS 279.482)

Sections 2-9 of this bill only apply to a developer for a redevelopment project if part of the redevelopment area is within an enterprise community. **Section 6** of this bill exempts public agencies who use redevelopment funds for a public work and private developers who do not construct a redevelopment project for a known owner from the requirement to submit an employment plan. **Section 7** of this bill requires an agency that proposes to provide an incentive to a developer to withhold payment of 10 percent of the incentive unless: (1) 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of the redevelopment area; (2) 15 percent of the jobs created by employers as a result of the redevelopment project are filled by residents of the redevelopment area; (3) the developer or build-to-suit owner or lessee complies with the requirements in the employment plan; and (4) the developer satisfies the reporting required by **section 8** of this bill. **Section 9** of this bill allows a developer to appeal a refusal to pay the amount provided for in **section 7** to the legislative body of the community.

Section 8 requires a developer that receives an incentive of more than \$100,000 to report to the redevelopment agency certain information relating to the redevelopment project. **Section 8** also requires a developer that receives \$100,000 or less in incentives to use its best efforts to report such information. Finally, **section 8** allows the redevelopment agency to refuse to pay all or a portion of the incentive or to require repayment of any incentive already paid if a developer fails to comply.

Section 11 of this bill requires the employment plan to include information about the preference for hiring persons living within the redevelopment area used by the developer and each employer who will be relocating a business into the area as a result of the redevelopment.

Section 12 of this bill makes an appropriation for a study of the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community.

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

Section 1. Chapter 279 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *"Build-to-suit developer" means a private developer who constructs a redevelopment project in accordance with the customized specifications of a known owner or lessee to whom the developer will convey or lease the property upon completion of the project.*

Sec. 3. *"Build-to-suit owner or lessee" means the owner or lessee of a redevelopment project that has been constructed by a build-to-suit developer to the customized specifications of the owner or lessee.*

Sec. 4. *"Developer" means a person or entity that proposes to construct a redevelopment project which will receive financial assistance from an agency.*

Sec. 5. *"Southern Nevada Enterprise Community" means the area designated as the Southern Nevada Enterprise Community in section 5 of chapter 407, Statutes of Nevada 2007.*

Sec. 5.5. *The provisions of sections 2 to 9, inclusive, of this act do not apply to a developer for a redevelopment project unless a portion of the redevelopment area of the redevelopment project is within an enterprise community which is currently or was previously established pursuant to 24 C.F.R. Part 597, including without limitation, the Southern Nevada Enterprise Community.*

Sec. 6. 1. *A public agency that uses redevelopment funds for the design or construction of a redevelopment project being built as a public work pursuant to chapter 338 of NRS is not required to submit an employment plan pursuant to NRS 279.482.*

2. *A developer who constructs a redevelopment project for the purpose of conveying or leasing the property to an unknown owner or lessee is not required to submit an employment plan pursuant to NRS 279.482 but may submit an employment plan voluntarily.*

Sec. 7. 1. *Except as otherwise provided in subsection 2, if an agency proposes to provide an incentive to a developer for a redevelopment project, 10 percent of the amount of the proposed incentive must be withheld by the agency and must not be paid to the developer unless:*

(a) *At least 15 percent of all employees of contractors, subcontractors, vendors and suppliers of the developer are bona fide residents of the redevelopment area and, among such persons, preference in hiring and contracting is given to residents of the Southern Nevada Enterprise Community;*

(b) *At least 15 percent of all jobs created by employers who relocate to the redevelopment area are filled by bona fide residents of the redevelopment area and, among such persons, preference in hiring is given to residents of the Southern Nevada Enterprise Community;*

(c) *The developer or build-to-suit owner or lessee complies with any requirements imposed by the agency relating to the employment plan in the agreement for the redevelopment project; and*

(d) *The developer satisfies all reporting requirements as described in section 8 of this act.*

2. *If an agency provides nonmonetary incentives to a developer for a redevelopment project, the developer shall deposit an amount of money with the agency equal to 10 percent of the value of the nonmonetary incentives as agreed upon between the agency and the developer. If the developer satisfies the requirements of paragraphs (a) to (d), inclusive, of subsection 1, the agency shall return the deposit required by this subsection to the developer.*

Sec. 8. 1. *Except as otherwise provided in subsection 2, a developer that receives incentives from an agency for a redevelopment project shall, upon completion of the project and upon request of the agency, report, in a form prescribed by the agency, information relating to:*

(a) *Outreach efforts that the developer has utilized, including, without limitation, information relating to job fairs, advertisements in publications that reach residents of the redevelopment area and utilization of employment referral agencies;*

(b) ~~*[Bonding, lines of credit and insurance.]*~~ *Training conducted for persons hired by the developer and contractors, subcontractors, vendors and suppliers of the developer and the employers within the development project; and*

(c) *The execution of the redevelopment, including, without limitation, plans and the scope of services.*

2. *If a developer receives incentives from an agency for a redevelopment project with a value of \$100,000 or less, the developer shall use its best efforts to satisfy the reporting requirements described in subsection 1.*

3. *If the developer fails to comply with the requirements of this section:*

(a) *The agency may refuse to pay all or any portion of an incentive; and*

(b) *The agency may require the developer to repay any incentive already paid to the developer.*

Sec. 9. 1. *A developer may appeal the refusal by an agency to pay the amount provided for in section 7 of this act to the legislative body of the community.*

2. *In an appeal, the developer has the burden of demonstrating that:*

(a) *Specific actions were taken to substantially fulfill the requirements of section 7 of this act;*

(b) *An insufficient number of significant opportunities for appropriate contractors, subcontractors, vendors or suppliers to perform a commercially useful function in the project existed; and*

(c) *Use of appropriate contractors, subcontractors, vendors or suppliers as required by section 7 of this act would have significantly and adversely affected the overall cost of the project.*

3. *If the legislative body finds that the developer's appeal has satisfied the requirements of subsection 2, the agency shall pay the developer the amount provided for in section 7 of this act.*

Sec. 10. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and sections 2 to 9, inclusive, of this act***, unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, ***and sections 2 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 11. NRS 279.482 is hereby amended to read as follows:

279.482 1. An agency may obligate lessees or purchasers of property acquired in a redevelopment project to:

(a) Use the property for the purpose designated in the redevelopment plans.

(b) Begin the redevelopment of the area within a period of time which the agency fixes as reasonable.

(c) Comply with other conditions which the agency deems necessary to carry out the purposes of NRS 279.382 to 279.685, inclusive, including, without limitation, the provisions of an employment plan or a contract approved for a redevelopment project.

2. ~~{As}~~ ***Except as otherwise provided in section 6 of this act***, as appropriate for the particular project, each proposal for a redevelopment project must also include an employment plan. The employment plan must include:

(a) A description of the existing opportunities for employment within the area;

(b) A projection of the effect that the redevelopment project will have on opportunities for employment within the area; ~~{and}~~

(c) A description of the manner in which an employer relocating a business into the area plans to employ persons living within the area of operation who:

(1) Are economically disadvantaged;

(2) Have a physical disability;

(3) Are members of racial minorities;

(4) Are veterans; or

(5) Are women ~~{-}~~ ; ***and***

(d) ***A description of the manner in which:***

(1) ***The developer will give a preference in hiring for construction jobs for the project to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community; and***

(2) ***Each employer relocating a business into the area plans to give a preference in hiring to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community.***

Sec. 12. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$50,000 for the contractual services of a consultant to study the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community.

~~{Sec. 12.}~~ ***Sec. 13.*** This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 340 to Senate Bill No. 360 provides that the measure only applies to a developer for a redevelopment project if a portion of the redevelopment area is within the Southern Nevada Enterprise Community.

It amends the contents of the report required to be filed by a developer who receives incentives under the bill to include information on the training conducted for persons hired by the developer, contractors, subcontractors, vendors, and suppliers of the developer and provides a \$50,000 appropriation from the State General Fund to the Interim Finance Committee for a feasibility study on a renewable energy sustainability center in the Southern Nevada Enterprise Community.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Senate Bill No. 360 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 365.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 289.

"SUMMARY—~~[Eliminates]~~ **Requires the board of trustees of each school district to review** certain mandates pertaining to school districts and public schools in this State. (BDR 34-184)"

"AN ACT relating to education; ~~[eliminating the requirement for the Superintendent of Public Instruction to prepare a memorandum on newly enacted laws and to disseminate the information to the school districts and charter schools; eliminating certain requirements imposed by statute on school districts and public schools in this State; eliminating the requirement for school districts, public schools and private schools to develop crisis response plans;]~~ **requiring the board of trustees of each school district to review certain plans, policies, programs and procedures and prepare a written report on the costs associated with implementing those plans, policies, programs and procedures;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Under existing law, the Superintendent of Public Instruction is required to prepare a memorandum that includes a description of each statute newly enacted by the Legislature and other bills pertaining to public education. (NRS 385.210) The board of trustees of each school district and the governing body of each charter school is required to disseminate the information received from the Superintendent to the parents and legal~~

~~guardians of pupils and prepare a plan for implementation of the statutes and bills. (NRS 386.360, 386.552) This bill repeals these statutory requirements.~~

~~Under existing federal law, a school which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a school improvement plan. (20 U.S.C. § 6316(b)(3)) Also under existing federal law, a school district which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a plan for improvement for the school district. (20 U.S.C. § 6316(e)(7)) Under existing state law, the board of trustees of each school district is required to prepare a plan to improve the achievement of pupils enrolled in the school district, and each principal of a public school is required to prepare a plan to improve the achievement of pupils enrolled in the school. (NRS 385.348, 385.357) This bill repeals these state statutory requirements.~~

~~Under existing law, school districts and public schools in this State are required to develop and adopt plans, policies and procedures including: (1) the development of academic plans for certain pupils enrolled in middle school or junior high school and high school (NRS 388.165, 388.205); (2) the creation of small learning communities for certain pupils enrolled in middle school or junior high school and high school (NRS 388.171, 388.215); (3) the adoption of policies for peer mentoring (NRS 388.176, 388.221); (4) reporting on the use of physical and mechanical restraint (NRS 388.5317); (5) the creation of advisory boards to review school attendance as an alternative to reporting the truancy of pupils to law enforcement (NRS 392.126-392.149); and (6) the temporary alternative placement of certain pupils with disciplinary issues. (NRS 392.4642-392.4648) This bill repeals these statutory requirements and other statutory mandates imposed on school districts and public schools.~~

~~Under existing law, school districts, public schools and private schools are required to develop policies to respond to a crisis and to establish committees to develop those policies. (NRS 392.600-392.656, 394.168-394.1699) This bill repeals the statutory requirements for crisis response plans and committees pertaining to school districts, public schools and private schools.]~~
This bill requires the board of trustees of each school district to review the plans, policies, programs and procedures that the board of trustees is required to implement pursuant to title 34 of NRS or pursuant to federal law. Upon such review, the board of trustees of each school district is required to prepare a written report on the plans, policies, programs and procedures which the board of trustees determines place an unfunded mandate and an undue financial burden on the school district and submit the written report, on or before August 1, 2012, to the Legislative Committee on Education and the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

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. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 37.5. 1. The board of trustees of each school district shall review the plans, policies, programs and procedures that the board of trustees is required to implement pursuant to title 34 of NRS or pursuant to federal law to determine which plans, policies, programs and procedures place an unfunded mandate and an undue financial burden upon the school district. The review must include, without limitation, the:

- (a) Plans to improve the achievement of pupils;
- (b) Academic plans for certain pupils enrolled in middle school or junior high school and high school;
- (c) Policies for peer mentoring;
- (d) Policies for the provision of a safe and respectful learning environment;
- (e) Programs for small learning communities;
- (f) Policies for pupil-led conferences;
- (g) Plans for the implementation of statutes;
- (h) Procedures for reporting the use of physical restraint and mechanical restraint;
- (i) Procedures for the creation of advisory boards to review school attendance;
- (j) Procedures for the temporary alternative placement of certain pupils with disciplinary issues; and
- (k) Plans for responding to a crisis.

2. Upon review of the plans, policies, programs and procedures pursuant to subsection 1, the board of trustees of each school district shall prepare a written report of its review. The report must include, without limitation:

- (a) The name of each plan, policy, program or procedure which the board of trustees determines places an unfunded mandate and an undue financial hardship upon the school district;
- (b) A description of the plan, policy, program or procedure;
- (c) The costs incurred by the school district for implementing the plan, policy, program or procedure and an identification of how much money the school district receives from the State or Federal Government for such implementation; and
- (d) The effectiveness of the plan, policy, program or procedure in improving the academic achievement of pupils enrolled in the school district, if applicable, including, without limitation, the assessment of the school district as to whether the plan, policy, program or procedure should continue.

3. On or before August 1, 2012, the board of trustees of each school district shall submit the written report prepared pursuant to subsection 2 to the:

- (a) Legislative Committee on Education; and
- (b) Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 38. This act becomes effective on July 1, 2011.

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LEADLINES OF REPEALED SECTIONS

~~NRS 385.210 Form of school register; dissemination of information regarding statutes and regulations relating to schools; memorandum to school~~

~~districts and charter schools; preparation and publication of Department bulletin.~~

~~NRS 385.348 Plan by school district to improve achievement of pupils; Preparation; contents; submission; annual review.~~

~~NRS 385.357 Plan to improve achievement of pupils for individual schools; duties of school support team in preparing plan; annual review; process for submission and approval of plan; timeline for carrying out plan. Effective July 1, 2010.~~

~~NRS 386.365 Policies and regulations in county whose population is 100,000 or more: Procedure.~~

~~NRS 386.370 Reports to Superintendent of Public Instruction.~~

~~NRS 386.552 Preparation of plan for implementation of statutes; written notice to parents and teachers concerning statutes and plan for implementation.~~

~~NRS 387.613 Review of school districts; recommendations by Legislative Auditor; selection of school districts by Legislature; qualifications and selection of consultant to conduct reviews; monitoring and oversight of consultant; self-assessment by school district required.~~

~~NRS 388.134 Adoption of policy by school districts for provision of safe and respectful learning environment; adoption of policy by school districts for ethical, safe and secure use of computers; provision of training to school personnel; annual report of violations. Effective July 1, 2010.~~

~~NRS 388.1345 Compilation of reports by Superintendent of Public Instruction; submission of written compilation to Attorney General.~~

~~NRS 388.165 Development of academic plan required. Effective July 1, 2011.~~

~~NRS 388.171 Program of small learning communities required in certain schools. Effective July 1, 2011.~~

~~NRS 388.176 Adoption of policy for peer mentoring. Effective July 1, 2011.~~

~~NRS 388.181 Adoption of policy for pupil-led conferences. Effective July 1, 2011.~~

~~NRS 388.205 Development of academic plan required for ninth grade pupils.~~

~~NRS 388.215 Program of small learning communities required for ninth grade pupils enrolled in larger schools.~~

~~NRS 388.221 Adoption of policy for peer mentoring.~~

~~NRS 388.5317 Annual report by school districts on use of restraint and violations; compilation of reports by Department; submission of compilation to Legislature.~~

~~NRS 389.011 Administration to pupils who are limited English proficient; State Board required to prescribe modifications and accommodations; administration in language other than English required under certain circumstances; assessment of proficiency in English language.~~

~~NRS 389.065 Instruction on acquired immune deficiency syndrome, human reproductive system, related communicable diseases and sexual responsibility.~~

~~NRS 390.220 Enforcement by board of trustees of use of prescribed textbooks; exception for charter schools.~~

~~NRS 391.235 Program to engage district-level administrators in classroom.~~

~~NRS 392.018 Written notice of certain courses, services and educational programs available to pupils within school district; posting at public schools; availability to parents.~~

~~NRS 392.126 Creation of advisory board in each county; membership; terms; compensation.~~

~~NRS 392.127 Administrative support to advisory boards and school attendance councils.~~

~~NRS 392.128 Duties of advisory boards; division into subcommittees; provision of assistance in conjunction with community service providers; use and accounting of available money by advisory board.~~

~~NRS 392.129 Establishment of school attendance councils; membership; duties; annual report.~~

~~NRS 392.141 Applicability of provisions to pupils.~~

~~NRS 392.146 Contents of written referral to advisory board; notice to parents or guardian.~~

~~NRS 392.147 Hearing by advisory board; written agreement for participation of pupil in certain programs; reporting of pupil to law enforcement agency under certain circumstances; confidentiality of information.~~

~~NRS 392.461 Code of honor relating to cheating; contents; distribution.~~

~~NRS 392.4635 Policy for prohibition of activities of criminal gangs on school property.~~

~~NRS 392.4637 Policy concerning use and possession of pagers, cellular telephones and other electronic devices.~~

~~NRS 392.4642 "Principal" defined.~~

~~NRS 392.4643 Actions taken against pupils with disabilities.~~

~~NRS 392.4644 Plan for progressive discipline and on-site review of disciplinary decisions; annual review and revision of plan; posting and availability of plan; written reports by superintendent of schools, board of trustees and Superintendent of Public Instruction concerning compliance with section.~~

~~NRS 392.4645 Removal of pupil from classroom: Notice; assignment to temporary alternative placement; exceptions.~~

~~NRS 392.4646 Removal of pupil from classroom: Conference; recommendation of principal.~~

~~NRS 392.4647 Establishment of committee to review temporary alternative placement of pupils.~~

~~NRS 392.4648 Powers and duties of committee to review temporary alternative placement of pupils.~~

~~NRS 392.604 "Crisis" defined.~~

~~NRS 392.608 "Development committee" defined.~~

~~NRS 392.612 "School committee" defined.~~

~~NRS 392.616 Development committee: Establishment by school districts and charter schools; membership; terms of members.~~

~~NRS 392.620 Development committee: Development of plan to be used by schools in responding to crisis; submission of plan to board of trustees or governing body of charter school; compliance with plan required.~~

~~NRS 392.624 Annual review and update of plan for responding to crisis; maintenance, posting and distribution of plan; annual training for school employees in responding to crisis; acceptance of gifts and grants.~~

~~NRS 392.628 School committee: Establishment; membership; terms of members.~~

~~NRS 392.632 School committee: Annual review of plan prepared by development committee; determination whether to request deviation from plan; notice of review.~~

~~NRS 392.636 Review by development committee of proposed deviation from plan; notice of approval or denial; submission of copy of approved deviation to board of trustees or governing body.~~

~~NRS 393.097 Duty to submit recommendations for financing costs for construction to Legislature; oversight panels required to approve or deny request for issuance of certain bonds.~~

~~NRS 394.168 Definitions.~~

~~NRS 394.1681 "Crisis" defined.~~

~~NRS 394.1682 "Development committee" defined.~~

~~NRS 394.1683 "School committee" defined.~~

~~NRS 394.1685 Development committee: Establishment by private school; membership; terms of members.~~

~~NRS 394.1687 Development committee: Development of plan to be used by private school in responding to crisis; submission of plan to governing body of private school; compliance with plan required of private school.~~

~~NRS 394.1688 Annual review and update of plan for responding to crisis; maintenance, posting and distribution of plan; annual training for school employees.~~

~~NRS 394.169 School committee: Establishment; membership; terms of members.~~

~~NRS 394.1691 School committee: Annual review of plan prepared by development committee; determination whether to request deviation from plan; notice of review.~~

~~NRS 394.1692 Review by development committee of proposed deviation from plan; notice of approval or denial; submission of copy of approved deviation to governing body of private school.~~

~~NRS 394.1694 Adoption of regulations concerning development of plans in responding to crisis, review of proposed deviations and requirements for training.~~

~~NRS 394.1698 Confidentiality of plans, approved deviations and certain other information.~~

~~NRS 394.1699 Inapplicability of Open Meeting Law to development committee, school committee and certain meetings of State Board related to crisis response.~~

Senator Denis moved the adoption of the amendment.

Remarks by Senators Denis and McGinness.

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

SENATOR DENIS:

Amendment No. 289 to Senate Bill No. 365 removes the requirement that a number of statutory provisions within the public education code be repealed. Instead, the amendment requires Nevada's school district boards of trustees to review the sections recommended for repeal and provide a report of their recommendations to the interim Legislative Committee on Education and the Director of the Legislative Counsel Bureau prior to the 2013 Legislative Session.

The amendment specifies the content of the report that includes the name and description of each required plan, policy, program, and procedure; the actual cost to the district; and the impact of each requirement on student achievement.

SENATOR MCGINNESS:

Thank you Mr. Chairman. This is my bill which had about 32 mandates that we are trying to remove. If you look at the digest, the amendment now requires the board of trustees of each school district to review these mandates and make a report. So it keeps all the mandates and puts another mandate in, so we are sliding backwards with this amendment.

I oppose this amendment and hope you will vote against this amendment.

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

Senate in recess at 4:06 p.m.

SENATE IN SESSION

At 4:07 p.m.

Senator Parks, presiding:

Quorum present.

Senator Horsford moved that Senate Bill No. 365 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senate Bill No. 406.

Bill read second time and ordered to third reading.

Senate Bill No. 411.

Bill read second time.

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

Amendment No. 212.

"SUMMARY—Provides for the regulation of ~~certified~~ medication aides. (BDR 54-1104)"

"AN ACT relating to nursing; providing for the certification by the State Board of Nursing of nursing assistants as ~~certified~~ medication ~~aides~~; aides - certified; prescribing the acts a ~~certified~~ medication ~~aide~~; aide-certified may perform; authorizing a ~~certified~~ medication ~~aide~~; aide - certified to possess and administer certain drugs and medications in certain medical facilities; authorizing the Board to establish certain fees and charges; prohibiting certain acts relating to ~~certified~~ medication ~~aides~~; aides - certified; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the regulation of nursing assistants. (NRS 632.285-632.286) **Sections 3-11** of this bill provide for the certification by the State Board of Nursing of nursing assistants as ~~certified~~ medication ~~aides~~; aides - certified. **Section 10** prescribes the duties a ~~certified~~ medication ~~aide~~; aide - certified may perform. **Sections 10 and 39** of this bill authorize ~~certified~~ medication ~~aides~~; aides - certified to possess and administer drugs and medications other than controlled substances to patients in certain medical facilities designated by the Board. **Sections 12-28** of this bill revise provisions administered by the Board to include ~~certified~~ medication ~~aides~~; aides - certified. **Section 14** of this bill extends the authority of the Advisory Committee on Nursing Assistants to ~~certified~~ medication ~~aides~~; aides - certified. **Sections 16 and 24** of this bill authorize the Board to adopt regulations and establish certain fees and charges applicable to ~~certified~~ medication ~~aides~~; aides - certified. **Section 21** of this bill authorizes the Board to take certain disciplinary action against ~~certified~~ medication ~~aides~~; aides - certified. **Sections 1, 2 and 28-38** of this bill expand the applicability of certain provisions that are currently applicable to nursing assistants to include ~~certified~~ medication ~~aides~~; aides - certified. **Section 31** provides for certain criminal penalties for a person who commits assault upon certain persons, including ~~certified~~ medication ~~aides~~; aides - certified, who are performing their official duties if the assault is based upon the performance of those duties.

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

Section 1. NRS 630.293 is hereby amended to read as follows:

630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the physician or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients; or

(2) Reports a sentinel event to the Health Division of the Department of Health and Human Services pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ***or ~~certified~~ medication ~~aide~~ aide - certified*** who is employed by or contracts to provide nursing services for the physician and who:

(1) In good faith, reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ***or ~~certified~~ medication ~~aide~~ aide - certified*** which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ***or ~~certified~~ medication ~~aide~~ aide - certified*** to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ***or ~~certified~~ medication ~~aide~~ aide - certified*** to disciplinary action by the State Board of Nursing; or

(c) An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ***or ~~certified~~ medication ~~aide~~ aide - certified*** who is employed by or contracts to provide nursing services for the physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners or another governmental entity relating to conduct described in paragraph (a) or (b).

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ***or ~~certified~~ medication ~~aide~~ aide - certified*** who is employed by or contracts to provide nursing services for the physician because the employee, registered nurse,

licensed practical nurse , ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* has taken an action described in subsection 1.

3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the physician to take an action described in subsection 1.

4. As used in this section:

(a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation of the investigation concerned.

(b) "Retaliate or discriminate":

(1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the person works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include an action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 2. NRS 630.296 is hereby amended to read as follows:

630.296 1. An employee of a physician or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the physician and who believes that he or she has been retaliated or discriminated against in violation of NRS 630.293 may file an action in a court of competent jurisdiction.

2. If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed

practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide-certified as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified within 60 days after the employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified constitutes retaliation or discrimination in violation of NRS 630.293.

6. A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 630.293.

Sec. 3. Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 11, inclusive, of this act.

Sec. 4. *"Authorized medications" means all prescription and nonprescription drugs and medications other than controlled substances.*

Sec. 5. ~~["Certified medication aide" means a nursing assistant who is certified by the Board to administer authorized medications in designated facilities.]~~ **(Deleted by amendment.)**

Sec. 6. *"Designated facility" means a medical facility designated by the Board as a facility in which certified medication aides may practice.*

Sec. 6.5. "Medication aide - certified" means a nursing assistant who is certified by the Board to administer authorized medications in designated facilities.

Sec. 7. *1. Any person who practices or offers to practice as a ~~certified~~ medication ~~aide~~ aide - certified in this State shall submit*

evidence that he or she is qualified to practice and must be certified to practice as a ~~certified~~ medication ~~aide~~ aide - certified as provided in this chapter.

2. It is unlawful for any person to practice or to offer to practice as a ~~certified~~ medication ~~aide~~ aide - certified in this State or to use any title, abbreviation, sign, card or device to indicate that the person is practicing as a ~~certified~~ medication ~~aide~~ aide - certified in this State unless the person is certified as a ~~certified~~ medication ~~aide~~ aide - certified pursuant to the provisions of this chapter.

3. The Executive Director of the Board may, on behalf of the Board, issue an order to cease and desist to any person who practices or offers to practice as a ~~certified~~ medication ~~aide~~ aide - certified without a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified issued pursuant to the provisions of this chapter.

4. The Executive Director of the Board shall forward to the appropriate law enforcement agency any information submitted to the Board concerning a person who practices or offers to practice as a ~~certified~~ medication ~~aide~~ aide - certified without a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified issued pursuant to the provisions of this chapter.

Sec. 8. 1. An applicant for a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified must submit proof satisfactory to the Board that the applicant:

- (a) Holds a certificate to practice as a nursing assistant in this State;
- (b) Has completed at least 1 year of continuous full-time employment as a nursing assistant in a medical facility in this State and is currently employed at a medical facility;
- (c) Has a high school diploma or its equivalent;
- (d) Has successfully completed a literacy and reading comprehension screening process approved by the Board;
- (e) Has successfully completed a training course for ~~certified~~ medication ~~aides~~ aides - certified of at least 100 hours that is approved by the Board;
- (f) Has passed an examination on such subjects as are required by the Board; and
- (g) Meets such other reasonable requirements as the Board prescribes by regulation.

2. An applicant who is licensed or certified as a medication aide in another state or territory of the United States may be certified in this State by endorsement if the applicant submits proof satisfactory to the Board that the applicant:

- (a) Holds a certificate to practice as a nursing assistant in another state or territory of the United States;

(b) Has completed at least 1 year of continuous full-time employment as a nursing assistant in a medical facility in another state or territory of the United States and is currently employed at a medical facility;

(c) Has a high school diploma or its equivalent;

(d) Has passed an examination determined by the Board to be equivalent to the examination required by paragraph (f) of subsection 1;

(e) Has completed training determined by the Board to be equivalent to the training required by paragraph (e) of subsection 1; and

(f) Meets such other reasonable requirements as the Board prescribes by regulation.

3. The Board shall issue a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified to each applicant who meets the requirements of this section.

Sec. 9. 1. The Board shall designate by regulation the types of medical facilities that may employ ~~certified~~ medication ~~aides~~ aids - certified.

2. If a designated facility elects to employ one or more ~~certified~~ medication ~~aides~~ aides - certified, the facility shall notify the Board in the manner prescribed by the Board.

Sec. 10. 1. A ~~certified~~ medication ~~aide~~ aide - certified may only administer authorized medications and perform related tasks at a designated facility under the supervision of an advanced practitioner of nursing or a registered nurse and in accordance with standard protocols developed by the Board.

2. Except as otherwise provided by subsection 4, a ~~certified~~ medication ~~aide~~ aide - certified may only administer authorized medications by the following methods:

- (a) Orally;*
- (b) Topically;*
- (c) By the use of drops in the eye, ear or nose;*
- (d) Vaginally;*
- (e) Rectally;*
- (f) Transdermally; and*
- (g) By the use of an oral inhaler.*

3. Except as otherwise provided by subsection 4, a ~~certified~~ medication ~~aide~~ aide - certified shall not:

- (a) Receive, have access to or administer any controlled substance;*
- (b) Administer parenteral or enteral medications;*
- (c) Administer any substances by nasogastric or gastrostomy tubes;*
- (d) Calculate drug dosages;*
- (e) Destroy medication;*
- (f) Receive orders, either in writing or verbally, for new or changed medication;*
- (g) Transcribe orders from medical records;*
- (h) Order or administer initial medications;*

- (i) Evaluate reports of medication errors;
- (j) Perform treatments;
- (k) Conduct patient assessments or evaluations;
- (l) Engage in teaching activities for patients; or
- (m) Engage in any activity prohibited pursuant to subsection 4.

4. The Board may adopt regulations authorizing or prohibiting any additional activities of a ~~certified~~ medication ~~aide~~ aide - certified.

5. As used in this section, "supervision" means active oversight of the patient care services provided by a ~~certified~~ medication ~~aide~~ aide - certified while on the premises of a designated facility.

Sec. 11. It is unlawful for any person:

1. To sell or fraudulently obtain or furnish a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified;

2. To practice as a ~~certified~~ medication ~~aide~~ aide - certified pursuant to a certificate that was illegally or fraudulently obtained or was signed or issued unlawfully or under fraudulent representation; or

3. To conduct a training course for ~~certified~~ medication ~~aides~~ aides - certified unless the training course has been approved by the Board.

Sec. 12. NRS 632.010 is hereby amended to read as follows:

632.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 632.011 to 632.0195, inclusive, **and sections 4, ~~5 and~~ 6 and 6.5 of this act** have the meanings ascribed to them in those sections.

Sec. 13. NRS 632.0135 is hereby amended to read as follows:

632.0135 "Certificate" means a document which authorizes a person to practice as a nursing assistant ~~or~~ ~~certified~~ medication ~~aide~~ aide - certified.

Sec. 14. NRS 632.072 is hereby amended to read as follows:

632.072 1. The Advisory Committee on Nursing Assistants ~~and~~ ~~Certified~~ Medication Aides, Aides, consisting of ~~10~~ 11 members appointed by the Board, is hereby created.

2. The Board shall appoint to the Advisory Committee:

- (a) One representative of facilities for long-term care;
- (b) One representative of medical facilities which provide acute care;
- (c) One representative of agencies to provide nursing in the home;
- (d) One representative of the Health Division of the Department of Health and Human Services;
- (e) One representative of the Division of Health Care Financing and Policy of the Department of Health and Human Services;
- (f) One representative of the Aging and Disability Services Division of the Department of Health and Human Services;
- (g) One representative of the American Association of Retired Persons or a similar organization;
- (h) A nursing assistant;
- (i) A registered nurse; ~~and~~

(j) A licensed practical nurse ~~[-]~~ ; **and**

(k) A ~~[-certified]~~ medication ~~[-aide-]~~ aide - certified.

3. The Advisory Committee shall advise the Board with regard to matters relating to nursing assistants ~~[-]~~ **and ~~[-certified]~~ medication ~~[-aides-]~~ aide - certified.**

Sec. 15. NRS 632.073 is hereby amended to read as follows:

632.073 1. In addition to the Advisory Committee on Nursing Assistants **and ~~[-Certified]~~ Medication ~~[-Aides]~~ Aides** created by NRS 632.072, the Board may appoint such other advisory committees as it deems appropriate.

2. The members of any advisory committee appointed pursuant to subsection 1 are not entitled to be paid a salary or to receive per diem allowances for conducting the business of the advisory committee, but the Board may authorize reimbursement for the actual expenses incurred by a member for traveling to and from a meeting of the advisory committee.

Sec. 16. NRS 632.120 is hereby amended to read as follows:

632.120 1. The Board shall:

(a) Adopt regulations establishing reasonable standards:

(1) For the denial, renewal, suspension and revocation of, and the placement of conditions, limitations and restrictions upon, a license to practice professional or practical nursing or a certificate to practice as a nursing assistant ~~[-]~~ **or ~~[-certified]~~ medication ~~[-aide-]~~ aide - certified.**

(2) Of professional conduct for the practice of nursing.

(3) For prescribing and dispensing controlled substances and dangerous drugs in accordance with applicable statutes.

(b) Prepare and administer examinations for the issuance of a license or certificate under this chapter.

(c) Investigate and determine the eligibility of an applicant for a license or certificate under this chapter.

(d) Carry out and enforce the provisions of this chapter and the regulations adopted pursuant thereto.

2. The Board may adopt regulations establishing reasonable:

(a) Qualifications for the issuance of a license or certificate under this chapter.

(b) Standards for the continuing professional competence of licensees or holders of a certificate. The Board may evaluate licensees or holders of a certificate periodically for compliance with those standards.

3. The Board may adopt regulations establishing a schedule of reasonable fees and charges, in addition to those set forth in NRS 632.345, for:

(a) Investigating licensees or holders of a certificate and applicants for a license or certificate under this chapter;

(b) Evaluating the professional competence of licensees or holders of a certificate;

(c) Conducting hearings pursuant to this chapter;

- (d) Duplicating and verifying records of the Board; and
 - (e) Surveying, evaluating and approving schools of practical nursing, schools and courses of professional nursing,
- ➔ and collect the fees established pursuant to this subsection.

4. For the purposes of this chapter, the Board shall, by regulation, define the term "in the process of obtaining accreditation."

5. The Board may adopt such other regulations, not inconsistent with state or federal law, as may be necessary to carry out the provisions of this chapter relating to nursing assistant trainees , ~~and~~ nursing assistants ~~and~~ ~~certified~~ medication aides - certified.

6. The Board may adopt such other regulations, not inconsistent with state or federal law, as are necessary to enable it to administer the provisions of this chapter.

Sec. 17. NRS 632.122 is hereby amended to read as follows:

632.122 The Board may:

1. Accept gifts or grants of money to pay for the costs of administering the provisions of this chapter.
2. Enter into contracts with other public agencies and accept payment from those agencies to pay the expenses incurred by the Board in carrying out the provisions of this chapter relating to nursing assistant trainees , ~~and~~ nursing assistants ~~and~~ ~~certified~~ medication aides - certified.

Sec. 18. NRS 632.125 is hereby amended to read as follows:

632.125 1. Each hospital or agency in the State employing professional or practical nurses , ~~or~~ nursing assistants ~~or~~ ~~certified~~ medication aides - certified shall submit a list of such nursing personnel to the Board at least three times annually as directed by the Board. Except as otherwise provided in NRS 239.0115, each list submitted to the Board pursuant to this subsection is confidential.

2. A medical facility shall, before hiring a nursing assistant , ~~or~~ nursing assistant trainee ~~or~~ ~~certified~~ medication aide - certified, obtain validation from the Board that the prospective employee has a current certificate, is enrolled in a training program required for certification or is awaiting the results of a certification examination.

Sec. 19. NRS 632.286 is hereby amended to read as follows:

632.286 1. The Board shall supply the Health Division of the Department of Health and Human Services upon request with a list of each training program approved by the Board.

2. The Board shall share with each state agency which regulates medical facilities and facilities for the dependent any information the Board receives concerning disciplinary action taken against nursing assistants ~~or~~ ~~certified~~ medication aides - certified who work in the facilities.

Sec. 20. NRS 632.310 is hereby amended to read as follows:

632.310 1. The Board may, upon its own motion, and shall, upon the verified complaint in writing of any person, if the complaint alone or together with evidence, documentary or otherwise, presented in connection therewith,

is sufficient to require an investigation, investigate the actions of any licensee or holder of a certificate or any person who assumes to act as a licensee or holder of a certificate within the State of Nevada.

2. The Executive Director *of the Board* may, upon receipt of information from a governmental agency, conduct an investigation to determine whether the information is sufficient to require an investigation for referral to the Board for its consideration.

3. If a written verified complaint filed with the Board does not include the complete name of the licensee , ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* against whom the complaint is filed, and the Board is unable to identify the licensee , ~~{or}~~ nursing assistant ~~{}~~ *or ~~certified~~ medication ~~aide~~ aide - certified*, the Board shall request that the employer of the licensee , ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* provide to the Board the complete name of the licensee , ~~{or}~~ nursing assistant ~~{}~~ *or ~~certified~~ medication ~~aide~~ aide - certified*. The employer shall provide the name to the Board within 3 business days after the request is made.

4. The employer of a licensee , ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* shall provide to the Board, upon its request, the record of the work assignments of any licensee , ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* whose actions are under investigation by the Board.

5. The Board shall retain all complaints received by the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 21. NRS 632.320 is hereby amended to read as follows:

632.320 1. The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that the licensee or certificate holder:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

↳ in which case the record of conviction is conclusive evidence thereof.

(c) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(d) Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

(e) Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license or certificate.

(f) Is a person with mental incompetence.
 (g) Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(2) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(3) Impersonating another licensed practitioner or holder of a certificate.

(4) Permitting or allowing another person to use his or her license or certificate to practice as a licensed practical nurse, registered nurse, ~~or~~ nursing assistant ~~or~~ ~~or~~ ~~certified~~ **medication aide - certified.**

(5) Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee or certificate holder.

(6) Physical, verbal or psychological abuse of a patient.

(7) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

(h) Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

(i) Is guilty of aiding or abetting any person in a violation of this chapter.

(j) Has falsified an entry on a patient's medical chart concerning a controlled substance.

(k) Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

(l) Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant ~~or~~ ~~certified~~ **medication aide - certified,** or has committed an act in another state which would constitute a violation of this chapter.

(m) Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

(n) Has willfully failed to comply with a regulation, subpoena or order of the Board.

(o) Has operated a medical facility at any time during which:

(1) The license of the facility was suspended or revoked; or

(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This paragraph applies to an owner or other principal responsible for the operation of the facility.

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an

offense. The Board may take disciplinary action pending the appeal of a conviction.

Sec. 22. NRS 632.342 is hereby amended to read as follows:

632.342 1. The certificate of a nursing assistant ~~or certified~~ ~~medication ~~aide~~~~ aide - certified must be renewed biennially on the date of the certificate holder's birthday.

2. The Board shall renew a certificate if the applicant:

(a) Submits a completed written application and the fee required by this chapter;

(b) Submits documentation of completion of continuing training, as required by the Board, in the previous 24 months;

(c) Has not committed any acts which are grounds for disciplinary action, unless the Board determines that sufficient restitution has been made or the act was not substantially related to nursing;

(d) Submits documentation of employment as a nursing assistant ~~or certified~~ ~~medication ~~aide~~~~ aide - certified during the 2 years immediately preceding the date of the renewal; and

(e) Submits all information required to complete the renewal.

➤ The training program completed pursuant to paragraph (b) must be approved by the Board.

3. Failure to renew the certificate results in forfeiture of the right to practice unless the nursing assistant ~~or certified~~ ~~medication ~~aide~~~~ aide - certified qualifies for the issuance of a new certificate.

4. Renewal of a certificate becomes effective on the date on which:

(a) The application is filed;

(b) The renewal fee is paid; or

(c) All information required to complete the renewal is submitted,

➤ whichever occurs latest.

Sec. 23. NRS 632.3425 is hereby amended to read as follows:

632.3425 A suspended license or certificate is subject to expiration and must be renewed as provided in NRS 632.341 or 632.342. Renewal does not entitle the licensee, ~~for~~ nursing assistant ~~or certified~~ ~~medication ~~aide~~~~ aide - certified to engage in activity which requires licensure or certification until the completion of the suspension.

Sec. 24. NRS 632.345 is hereby amended to read as follows:

632.345 1. The Board shall establish and may amend a schedule of fees and charges for the following items and within the following ranges:

	Not less than	Not more than
Application for license to practice professional nursing (registered nurse).....	\$45	\$100
Application for license to practice practical nursing.....	30	90
Application for temporary license to practice professional nursing or		

practical nursing pursuant to NRS 632.300, which fee must be credited toward the fee required for a regular license, if the applicant applies for a license.....	15	50
Application for a certificate to practice as a nursing assistant ~~or [certified]~~ <u>medication [aide] aide – certified</u>	15	50
Application for a temporary certificate to practice as a nursing assistant pursuant to NRS 632.300, which fee must be credited toward the fee required for a regular certificate, if the applicant applies for a certificate	5	40
Biennial fee for renewal of a license	40	100
Biennial fee for renewal of a certificate	20	50
Fee for reinstatement of a license	10	100
Application for recognition as an advanced practitioner of nursing	50	200
Application for recognition as a certified registered nurse anesthetist.....	50	200
Biennial fee for renewal of recognition as an advanced practitioner of nursing or certified registered nurse anesthetist.....	50	200
Examination fee for license to practice professional nursing.....	20	100
Examination fee for license to practice practical nursing	10	90
Rewriting examination for license to practice professional nursing	20	100
Rewriting examination for license to practice practical nursing.....	10	90
Duplicate license	5	30
Duplicate certificate	5	30
Proctoring examination for candidate from another state.....	25	150
Fee for approving one course of continuing education.....	10	50
Fee for reviewing one course of continuing education which has been changed since approval	5	30
Annual fee for approval of all courses of continuing education offered	100	500
Annual fee for review of training program.....	60	100
Certification examination	10	90

Approval of instructors of training programs.....	50	100
Approval of proctors for certification examinations.....	20	50
Approval of training programs	150	250
Validation of licensure or certification.....	5	25

2. The Board may collect the fees and charges established pursuant to this section, and those fees or charges must not be refunded.

Sec. 25. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, ~~certified~~ **medication aide**, ~~aide~~ **aide - certified**, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 427A.0291.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant ~~or certified~~ ~~medication aide~~ aide - certified has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 26. NRS 632.476 is hereby amended to read as follows:

632.476 Each employer of a licensee, ~~for~~ nursing assistant ~~or certified~~ ~~medication aide~~ aide - certified shall prepare and maintain, for at least 5 years, a record of the work assignments of each licensee, ~~for~~ nursing assistant ~~or certified~~ ~~medication aide~~ aide - certified.

Sec. 27. NRS 632.490 is hereby amended to read as follows:

632.490 1. The Board shall cause the prosecution of all persons violating the provisions of this chapter.

2. The Board, or any person designated by the Board, may prefer a complaint for violation of NRS 632.285 or 632.315 **or section 7 or 11 of this act** before any court of competent jurisdiction, and it may take the necessary legal steps through the proper legal officers of this State to enforce the provisions thereof.

Sec. 28. NRS 632.495 is hereby amended to read as follows:

632.495 1. In addition to any other penalty:

(a) The Board may issue a citation to a person who violates the provisions of NRS 632.285 or 632.315 ~~or~~ **section 7 or 11 of this act**. A citation issued pursuant to this paragraph must be in writing and describe with particularity the nature of the violation. The citation also must inform the person of the provisions of subsection 2. A separate citation must be issued for each violation. If appropriate, the citation must contain an order of abatement of the violation.

(b) The Board shall assess an administrative fine of:

(1) For the first violation, \$500.

(2) For the second violation, \$1,000.

(3) For the third or subsequent violation, \$1,500.

2. To appeal the finding of a violation of NRS 632.285 or 632.315 ~~or~~ **section 7 or 11 of this act**, the person must request a hearing by written notice of appeal to the Board within 30 days after the date of issuance of the citation.

Sec. 29. NRS 633.505 is hereby amended to read as follows:

633.505 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:

(1) Reports to the State Board of Osteopathic Medicine information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients; or

(2) Reports a sentinel event to the Health Division of the Department of Health and Human Services pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the osteopathic physician and who:

(1) In good faith, reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* to disciplinary action by the State Board of Nursing; or

(c) An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in paragraph (a) or (b).

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified who is employed by or contracts to provide nursing services for the osteopathic physician because the employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified who is employed by or contracts to provide nursing services for the osteopathic physician to take an action described in subsection 1.

4. As used in this section:

(a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.

(b) "Retaliate or discriminate":

(1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the person works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include an action described in sub-paragraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 30. NRS 633.507 is hereby amended to read as follows:

633.507 1. An employee of an osteopathic physician or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified who is employed by or contracts to provide nursing services for the osteopathic physician and who believes that he or she has been retaliated or discriminated against in violation of NRS 633.505 may file an action in a court of competent jurisdiction.

2. If a court determines that a violation of NRS 633.505 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

- (a) Compensatory damages;
- (b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aid - certified as a result of the violation;
- (c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and
- (d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aid - certified and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aid - certified within 60 days after the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aid - certified takes any action described in subsection 1 of NRS 633.505, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aid - certified constitutes retaliation or discrimination in violation of NRS 633.505.

6. An osteopathic physician or any agent or employee thereof that violates the provisions of NRS 633.505 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 633.505.

Sec. 31. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

- (a) "Assault" means:
 - (1) Unlawfully attempting to use physical force against another person; or
 - (2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.
- (b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(c) "Provider of health care" means a physician, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, ~~a certified medication aide,~~ aide - certified, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her

duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 32. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~["Certified medication aide"]~~ ***"Medication aide - certified" has the meaning ascribed to it in section ~~57~~ 6.5 of this act.***

Sec. 33. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, ***and section 32 of this act*** have the meanings ascribed to them in those sections.

Sec. 34. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of

Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2); or

(b) A registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the medical facility and who:

(1) In accordance with the policy, if any, established by the medical facility:

(I) Reports to his or her immediate supervisor, in writing, that he or she does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

(II) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* concerning his or her competence to provide various nursing services, he or she does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless the refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto;

(2) In good faith, reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* to disciplinary action by the State Board of Nursing.

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse, ~~{or}~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide

nursing services for the medical facility because the employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified~~ ~~medication ~~aide~~~~ aide - certified has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified~~ ~~medication ~~aide~~~~ aide - certified who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.

(b) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

(c) "Retaliate or discriminate":

(1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified~~ ~~medication ~~aide~~~~ aide - certified took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the person works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include an action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 35. NRS 449.207 is hereby amended to read as follows:

449.207 1. An employee of a medical facility or a registered nurse, licensed practical nurse , ~~{or}~~ nursing assistant ~~or certified~~ ~~medication ~~aide~~~~ aide - certified who is employed by or contracts to provide nursing services for the medical facility and who believes that he or she has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction.

2. If a court determines that a violation of NRS 449.205 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aide - certified as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aide - certified and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aide - certified within 60 days after the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aide - certified takes any action described in subsection 1 of NRS 449.205, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ medication aide ~~aid~~ aide - certified constitutes retaliation or discrimination in violation of NRS 449.205.

6. A medical facility or any agent or employee thereof that violates the provisions of NRS 449.205 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 449.205.

Sec. 36. NRS 449.208 is hereby amended to read as follows:

449.208 1. A medical facility shall prepare a written notice for the employees of the medical facility and for the nurses, ~~and~~ nursing assistants ~~and~~ ~~certified~~ medication aides ~~aides~~ aides - certified who contract with the medical facility regarding the protections provided for actions taken pursuant to subsection 1 of NRS 449.205 and the legal remedy provided pursuant to NRS 449.207. The notice must include the process by which an employee,

nurse, ~~or~~ nursing assistant ~~or certified medication ~~aide~~~~ aide - certified may make a report pursuant to subsection 1 of NRS 449.205.

2. A medical facility shall:

(a) Post in one or more conspicuous places at the medical facility the notice prepared pursuant to subsection 1; and

(b) Include the text of the written notice in any manual or handbook that the medical facility provides to employees, ~~and~~ nurses, ~~and~~ nursing assistants ~~and certified medication ~~aides~~~~ aides - certified who contract with the medical facility concerning employment practices at the medical facility.

Sec. 37. NRS 449.2416 is hereby amended to read as follows:

449.2416 "Nurse" means a person licensed pursuant to chapter 632 of NRS to practice nursing, including, without limitation, a licensed practical nurse. The term does not include a certified nursing assistant ~~or a certified medication ~~aide~~~~ aide - certified.

Sec. 38. NRS 449.247 is hereby amended to read as follows:

449.247 1. The Health Division may review the personnel files of a medical facility or facility for the dependent to determine that each nursing assistant ~~or certified medication ~~aide~~~~ aide - certified employed by the facility has a current certificate.

2. The Health Division shall review the qualifications of instructors of nursing assistants ~~or certified medication ~~aides~~~~ aides - certified for each program of which the Division is notified pursuant to NRS 632.286.

3. The Health Division may conduct the review of training programs for nursing assistants ~~or certified medication ~~aides~~~~ aides - certified in facilities for long-term care.

4. The Health Division and any other state agency which regulates medical facilities and facilities for the dependent shall provide to the State Board of Nursing any information it discovers concerning:

(a) Programs and instructors for training nursing assistants ~~or certified medication ~~aides~~~~ aides - certified which do not comply with the requirements established by the State Board of Nursing.

(b) The failure of a nursing assistant ~~or certified medication ~~aide~~~~ aide - certified to perform consistently at a safe level.

(c) The results of any investigation of a facility if the investigation concerns a nursing assistant, ~~certified medication ~~aide~~~~ aide - certified or instructor or training program for nursing assistants ~~or certified medication ~~aides~~~~ aides - certified.

5. The State Board of Nursing shall investigate any report submitted pursuant to subsection 4 and may revoke approval of a program or instructor if the allegations of the report are true.

Sec. 39. NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.

2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(b) Acting under the direction of the medical director of that agency or facility who works in this State.

5. ~~A ~~certified~~ medication ~~aide~~~~ ***aide - certified at a designated facility under the supervision of an advanced practitioner of nursing or registered nurse and in accordance with standard protocols developed by the State Board of Nursing. As used in this subsection, "designated facility" has the meaning ascribed to it in section 6 of this act.***

6. Except as otherwise provided in subsection ~~{6,}~~ 7, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(a) The State Board of Health in a county whose population is less than 100,000;

(b) A county board of health in a county whose population is 100,000 or more; or

(c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

~~{6,}~~ 7. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

~~{7,}~~ 8. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

~~{8,}~~ 9. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

~~{9,}~~ 10. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

- (a) In the presence of a physician or a registered nurse; or
- (b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

➔ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

~~{10-}~~ **11.** Any person designated by the head of a correctional institution.

~~{11-}~~ **12.** An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

~~{12-}~~ **13.** A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

~~{13-}~~ **14.** A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

~~{14-}~~ **15.** A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

~~{15-}~~ **16.** A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

~~{16-}~~ **17.** In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

~~{17-}~~ **18.** A veterinary technician at the direction of his or her supervising veterinarian.

~~{18-}~~ **19.** In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the ~~{"Standards of Immunization Practices"}~~ **standards for immunization practices** recommended and approved by the ~~{United States Public Health Service}~~ Advisory Committee on Immunization Practices.

~~{19-}~~ **20.** A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear

medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

Sec. 40. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 212 to Senate Bill No. 411 simply changes the name "certified medication aide" to "medication aide-certified."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Senate in recess at 4:10 p.m.

SENATE IN SESSION

At 4:38 p.m.

Senator Parks presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 15, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 360.

MARK KRMPOTIC
Fiscal Analysis Division

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 former Senator Norman "Ty" Hilbrecht.

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Thomas "Spike" Wilson and Mrs. Thomas Wilson.

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to former Secretary of the Senate Claire Clift.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Terry Care.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Leonard "Len" Nevin.

On request of Senator Halseth, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Mike Malone.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Eric Beyer, Loretta Harper and Jennifer Webb-Cook.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Jim Elston, Summer Fernandez, Ms. Tracy Lynn Chew, Dr. Sonya Horsford, former Senator William J. Raggio, Dale Raggio, Ms. Leslie Raggio-Righetti and Anthony Woodring

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Bill Farr.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Stavan Corbett, Chris Wallace and Gary Murphy.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Secretary of State Ross Miller.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Margie Foote, Gary Ghiggeri and former Senator Alan Glover.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to Pat Getto, former Senator Virgil Getto and former Senator Cliff Young.

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Bob Coffin.

On request of Senator Rhoads, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Dennis Nolan.

On request of Senator Schneider, the privilege of the Floor of the Senate Chamber for this day was extended to Jack K.C. Chiang; Deputy Director General Jay Wong, former Senator Helen Foley, Will Foley, former Senator John Foley, Sandra Litton, Dean H. L. Wang; Director Joy Wong.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Bernice Martin Matthews and Congresswoman Dina Titus.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to former Senate President Dr. Lonnie Hammergren and former Senator Stephanie Tyler.

Senator Horsford moved that the Senate adjourn until Wednesday, April 20, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 4:42 p.m.

Approved:

SENATOR DAVID R. PARKS

Chair of Legislative Operations and Elections

Attest: DAVID A. BYERMAN

Secretary of the Senate

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 20, 2011

Senate called to order at 10:19 a.m.

President Krolicki presiding.

Roll called.

All present except Senator Schneider, who was excused.

Prayer by the Chaplain, Pastor Ron Torkelson.

God Almighty,

In the Bible a promise is given that You are able to do immeasurably more than all we ask or imagine according to Your power that is at work within us. As we look and listen at our surroundings we can see an incredible task before us.

The people of Nevada are concerned about the future, their jobs, their homes and their children's well being. These neighbors of ours are looking to this Senate with hope that the government may be able to help stem the pain and worry of these circumstances. And yet this is no simple task.

Therefore, I pray for these men and women again today. I pray that their insight, wisdom and compassion will be part of the solution to the pain, hurt and hopelessness of so many they represent.

The task may not be simple but then Your promise is to do more than we can possibly imagine. May Your wisdom be ours. I pray that the decisions made here today will be those. You can bless tomorrow.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 21, 99, 168, 266, 267, 278, 291, 292, 313, 314, 328, 351, 367, 414, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Education, to which was referred Senate Bill No. 212, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MO DENIS, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 233, 487, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 113, 420, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

COMMUNICATIONS
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-2803

April 6, 2011

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, State of Nevada Senate,
Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

DEAR SENATOR HORSFORD:

This letter serves as a formal request to address the Nevada Legislature at the joint session held on the evening of Monday, April 25, 2011 at 5:00 p.m. My understanding is that this date and time is available.

If further action or information is necessary please do not hesitate to contact me or district director Grant Hewitt in my Las Vegas District office at 702-387-4941.

Thank you for your consideration of this request.

Sincerely,

DR. JOE HECK

Member of Congress

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Horsford, Breeden, Brower, Cegavske, Copening, Denis, Gustavson, Halseth, Hardy, Kieckhefer, Kihuen, Lee, Leslie, Manendo, McGinness, Parks, Rhoads, Roberson, Schneider, Settelmeyer, Wiener; Assemblymen Smith, Aizley, Anderson, Atkinson, Benitez-Thompson, Bobzien, Brooks, Bustamante Adams, Carlton, Carrillo, Conklin, Daly, Diaz, Dondero Loop, Ellison, Flores, Frierson, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Hogan, Horne, Kirkpatrick, Kirner, Kite, Livermore, Mastroluca, McArthur, Munford, Neal, Ocegueda, Ohrenschall, Pierce, Segerblom, Sherwood, Stewart and Woodbury:

Senate Concurrent Resolution No. 7—Memorializing Milton D. Glick, President of the University of Nevada, Reno.

WHEREAS, The members of the Nevada Legislature note with great sorrow the passing of Milton Glick, President of the University of Nevada, Reno, and one of Nevada's finest educators and leaders, on April 16, 2011; and

WHEREAS, Born in Memphis, Tennessee, in 1937, Dr. Glick grew up in Rock Island, Illinois, and it soon became apparent that education was to be his passion, as he graduated with a bachelor's degree in chemistry from Augustana College in Rock Island and earned his doctorate at the University of Wisconsin in Madison, followed by postdoctoral studies at Cornell University in Ithaca, New York; and

WHEREAS, Dr. Glick was on the faculty at Wayne State University in Detroit, Michigan, Iowa State University in Ames, the College of Arts and Science at the University of Missouri in Columbia and Arizona State University in Tempe, which reinforced his enduring belief in the power of higher education; and

WHEREAS, At his inauguration as the 15th President of the University of Nevada, Reno, in 2006, Dr. Glick stated that "The next Comstock Lode is not in the mines of Nevada. . . . It is in the minds of Nevadans," thereby signaling to all Nevadans that he had the leadership and commitment to take the University to new heights and national recognition; and

WHEREAS, Despite economic challenges, President Glick fostered a culture of excellence and led the University to unprecedented growth through campus expansion and construction,

increased research funding, the recruitment of a record number of National Merit Scholarship students and the elevation of the University to Tier 1 status in the prestigious annual rankings of *U. S. News & World Report*; and

WHEREAS, The efforts of this talented leader and devoted educator resulted last year in the University graduating its largest class ever, marking a 66 percent increase in the number of baccalaureate degrees awarded over the last 10 years; and

WHEREAS, Dr. Glick's mantra was that "Nevada needs more education, not less. It's about what we want our children and grandchildren to inherit," and when asked about the future of education in the face of severe budget cuts, he said, "I still believe that what we do at our University will determine the quality of life for all Nevadans"; and

WHEREAS, As the heart and soul of the University of Nevada, Reno, Dr. Glick always put the students' needs first, whether it was by participating in a walk-a-thon, rooting for the Wolf Pack, or telling a story he always had a twinkle in his eye and optimism for the future of Nevada through education; and

WHEREAS, The absence of this beloved figure with his trademark hat and ever-present sense of humor will forever alter the aura of the campus of the University of Nevada, Reno; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 76th Nevada Legislature offer their deepest condolences to Dr. Glick's wife Peggy, son David and his wife Jennifer, son Sander and his wife Laura, and grandchildren Toby, Nina and Elijah; and be it further

RESOLVED, That the remarkable legacy which Dr. Glick leaves through the lives he touched and through living his belief that education is the pathway to a better future for the Silver State is appreciated and lauded by all residents of this State; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Dr. Glick's beloved wife Peggy.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

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

Thank you, Mr. President. The loss of President Milton Glick hit the State of Nevada and the University of Nevada, Reno, in particular, very hard.

President Glick dedicated his life to improving education across the country and was an asset to the University of Nevada, Reno. We were fortunate and blessed to have him in our State. His dedication to improving the lives of students was unmatched. Throughout his career, from Iowa to Arizona to Nevada, universities under President Glick's watch saw increases in enrollment, improvements in student retention and boosts in research funding. His legacy in education will live on, but his warm and friendly presence truly will be missed.

Our thoughts and prayers are with President Glick's wife, Peggy, his entire family and the students, faculty and staff of the University of Nevada, Reno. I encourage the body to adopt Senate Concurrent Resolution No. 7 in memory of the late President Milton D. Glick.

Resolution adopted.

Senator Horsford moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 7 be immediately transmitted to the Assembly.

Motion carried unanimously.

Senator Denis moved that the action whereby Senate Bills Nos. 449, 451 which were re-referred to the Committee on Finance be rescinded.

Motion carried.

Senator Denis moved that Senate Bills Nos. 449, 451 be placed at the top of the Second Reading File.

Motion carried.

Senator Wiener moved that Senate Bill No. 140 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering the K-12 budget, with Senator Horsford as Chair and Senator Leslie as Vice Chair of the Committee of the Whole.

Motion carried.

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

Senate in recess at 10:34 a.m.

IN COMMITTEE OF THE WHOLE

At 11:18 a.m.

Senator Horsford presiding.

K-12 Budget discussed.

The Committee of the Whole was addressed by Senator Horsford; Senator Lee; Mark Krmpotic, Senate Fiscal Analyst, Fiscal Analysis Division; Julie Waller, Program Analyst; Senator Cegavske; Senator Wiener; Senator Kieckhefer; Dwight Jones, Superintendent of Schools, Clark County School District; Jeff Weiler, Chief Financial Officer, Clark County School District; Senator Hardy; Senator Settlemeyer; Senator Denis; Senator Gustavson; Senator Manendo; Senator Roberson; Senator Halseth; Senator Leslie; Craig Hulse, Washoe County School District; Gary S. Kraemer, Chief Financial Officer, Washoe County School District; Dr. William Roberts, Nye County Superintendent of Schools; Dr. Caroline Ross, Churchill County Superintendent of Schools; Senator McGinness; Andrew Clinger, Director of Department of Administration, Budget Director; Heidi Gansert, Chief of Staff for Governor Sandoval; Lucas Foletta, General Counsel, Governor's Office; Dottie Merrill, Nevada Association of School Boards; Marty Johnson; Dr. Keith Rheault, Nevada State Superintendent of Public Instruction.

SENATOR HORSFORD:

The Committee of the Whole is called to order.

Good morning. I would like to start our Committee of the Whole Session, today, with a few remarks. I would like to put this session in the proper context, one that is serious and substantive. Some in the Legislature have characterized these Committee of the Whole proceedings as a "dog and pony show," or a farce intended to politically embarrass members of this body. Nothing could be further from the truth. The Committee of the Whole in the Senate is about serious business of the State of Nevada that must be resolved. It must be resolved through

compromise and consensus among the 21 members of this body, the other House and the Governor. It is time for us to come together, to work together and to find the common ground to fund the budget responsibly. It will mean acting like adults and having a grown-up conversation. It will mean putting our ideological views and positions aside and doing what is necessary for the best interests of the State under these difficult and trying circumstances.

I believe that dismantling our social safety net will not position Nevada for success or improve our quality of life. Shuffling money from one account to another rather than solving our long-term fiscal issues responsibly does not position Nevada for success or secure Nevada's future. Reform to our schools without adequate funding does not position our children for success or the future economic success of our State. Ultimately, we will have to make decisions on the budget that the Governor has proposed. This body and our counterparts down the hall will have to arrive at a budget solution that is accepted by at least a majority in both Houses. That is a fact. We all have mandates from our constituents. Those of us who ran on protecting funding for education and vital public services have promises to keep as well. That is why we have to be responsible and take a balanced approach to this budget.

As one Legislator in this body, I cannot support the Governor's budget as proposed, primarily because of the deep and devastating cuts it makes to public education in this State. I know that some of you are not prepared to support alternatives. I have not put a line in the sand. I have said that some cuts will be necessary and that we will have to accept some of the proposals by the Governor. Consensus on this budget will take compromise on all of our parts. I am prepared to stay here as long as it takes, but I would prefer that we meet our constitutional deadline of passing a budget by June 6, 2011. That means we must begin working together now to find the common ground and the compromises that will allow that to happen, putting aside our ideological differences and passing a responsible budget that serves the citizens of our great State. That is what these Committee of the Whole proceedings are about. They are about helping us make informed decisions on issues like education, social services, public safety and many others. This is the first time I am aware of that our entire body in the Senate and the Assembly have had the opportunity to be this involved in the budget decision process. We have committed to the most open and transparent process that I have ever seen. It is necessary because of these difficult decisions for all 21 of us in this body, and in the other House, and so that the public will be able to understand every major decision that must be made. The decisions are not easy. Our constituents need to know how difficult those decisions are. There will not be many good outcomes. There will be reduced spending levels even in those areas that matter to us most. For those reasons, we all together have agreed to do this Committee of the Whole process. I thank those members here and I ask all of us to be professional to one another, to respect each other's views and opinions even when we disagree and to be engaged on these issues together so that as we deliberate, as we find that common ground, building that consensus, we do it together as one body working together for the best interest of one State.

SENATOR LEE:

Thank you, Mr. Chair. As a senior member of this body, with 12 years of service in the Legislature, this is the first time I have ever been involved with the budget process. I have never served on the Committee on Finance and I have never served on the Committee on Education. I see this as a wonderful opportunity for someone with my lack of skills in this area to get a better education on what I am voting on. I would like to thank the Minority Leader for agreeing to meet with the Majority Leader to bring these discussions out into the open. Most of the time, people who serve in this body get a huge book, which is the budget bill on the last day of session of all of the decisions that have been made. I have looked at that book many times and wondered how I can tell people I read all of the bills when I have one hour to read the book. I see this as a wonderful opportunity. I have constituents who call me on both sides of this issue. They are passionate. They understand their side of the issue well, but I am stuck in the middle acting as the arbitrator between those decisions. Stating, "I don't know the answer," does not go very far for them. I am interested in being able to answer those questions. This is a wonderful learning process, not only for us in the Legislature but also for the people that we represent. Mr. Chair, I needed this at this time. I want to thank you and the Minority Leader for having these debates in public so that I may understand and learn.

SENATOR HORSFORD:

Let me outline the plan for this Committee of the Whole. We will hear a budget overview for K-12 education from our Fiscal Analysis Division Staff. That will be followed by remarks from the school district representatives who are here. Then we will hear from representatives of the Executive Branch, including the Chief of Staff and the Budget Director; the Superintendent of Schools for State Public Instruction; then remarks from representatives in Las Vegas through video conferencing, who will discuss the capital reserve proposal. We will hear from representatives who will explain some of the implications of that budget decision.

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division):

I will begin by discussing *The Senate Committee of the Whole Work Session on Governor's Budget Proposal for K-12 Education* (Exhibit C.) Three weeks ago, I had an opportunity to provide an overview of K-12 education along with other key budgetary matters based on the Governor's recommended budget. The information we will be providing today will include the Governor's recommended budget with budget amendments that have been submitted since that previous presentation.

JULIE WALLER (Program Analyst, Fiscal Analysis Division):

The budget account for K-12 education includes six accounts; the Distributive School Account (DSA); the School Remediation Trust Fund; Incentives for Licensed Educational Personnel; Other State Education Programs; the Educational Trust Fund; and the State Supplemental School Support Fund.

The first table compares State K-12 education funding approved during the 2009 75th Legislative Session and as adjusted during the Twenty-sixth Special Session, with the Governor's recommended K-12 education funding for the upcoming biennium, prior to the submission of budget amendments. The State funding recommended in the Governor's budget is 15 percent less than the funding level approved during the 2009 Session and 11 percent less than the K-12 funding approved during the Twenty-sixth Special Session. Seven budget amendments have been submitted by the administration that affect K-12 education funding resulting in a General Fund of \$42.4 million in FY 2012 and \$29.5 million in FY 2013. The table entitled *Summary of Budget Amendments K-12 Education 2011-13 Biennium (Attachment A)* provides more detail for these amendments. *Distributive School Account-Summary for 2011-13 Biennium (Attachment B)* is a summary of the DSA that incorporates the applicable budget amendments. *Major Reduction Recommendations for K-12 Education Governor Recommends-Amended 2011-13 Biennium (Attachment C)* is a table that outlines major K-12 funding reductions recommended in the Executive Budget.

The DSA is the budget through which the State distributes direct financial aid to local school districts. Each session the Legislature determines the level of State aid for schools or the guaranteed basic support per pupil thorough a formula known as the "Nevada Plan," which allows for differences across districts and the cost of providing education as well as in local wealth. The DSA does not include all of the funding for K-12 education, but includes only the State's portion of school district and charter school operating funds.

Each district's guaranteed level of State aid is determined by multiplying the basic support per pupil by weighted enrollment. The Governor's budget includes a slight increase in projected enrollment for the upcoming biennium from 422,570 students to 423,192 students in FY 2012 with a slight increase to 424,460 students in FY 2013. The level of basic support per pupil approved during the 2009 75th Legislative Session was \$5,251 for FY 2010 and \$5,395 for FY 2011. Those figures were later adjusted during the Twenty-sixth Special Session to a reduced level of \$5,186 per student in FY 2010 and \$5,192 per student in FY 2011 as a result of the budget reductions. The funding reductions recommended by the Governor as amended resulted in an average basic support per pupil of \$4,877 per pupil and \$4,878 per pupil for FY 2012 and FY 2013 respectively. A decrease of approximately \$518 from the basic support per pupil first approved during the 2009 75th Legislative Session of \$5,395 for FY 2011 and a decrease of \$315 compared to the Twenty-sixth Special Session level of \$5,192 per pupil.

There are some recommendations included in the Executive Budget that impact the basic support per pupil. The Governor recommends a 5 percent reduction in salaries for all State and school personnel effective July 1, 2011. This recommendation, inclusive of the budget

amendments, results in General Fund reduction of approximately \$256.5 million over the biennium. The school district and charter school salaries are not determined by the Legislature but are determined by each school district and charter school through collective bargaining. If the Governor's recommendation to reduce salaries for school personnel is approved by the Legislature, but school districts and charter schools are unable to reduce salaries through collective bargaining, school districts would be required to reduce other expenditures in other areas to compensate for this.

The Governor recommends suspending funding for merit salary increases over the 2011-2013 biennium. This recommendation results in General Fund savings totaling \$142.6 million over the biennium. School district and charter school personnel are eligible for merit salary increases based on years of service as well as the attainment of additional educational experience. For the current biennium, the Governor has also recommended the suspension of funding for merit salary increases for all State and school personnel. The 2009 75th Legislative Session approved this recommendation for all State employees except that the Legislature restored funding for merit salary increases for licensed educational personnel for the attainment of additional educational experience. This recommendation in the Governor's budget is also subject to collective bargaining.

The third recommendation is the Public Employees' Retirement System (PERS) equalization. The Executive Budget, as amended, recommends a reduction in funding totaling \$200.7 million over the upcoming biennium representing an employee contribution of 5.3075 percent to Public Employees' Retirement System (PERS). By comparison, State employees who elect the employer paid PERS option receive a salary reduction of 10.615 percent of their contribution, with the State paying the full contribution. Presently, the school district and charter school employees participate in this same employer-PERS option, and funding for salaries in the DSA is not reduced for the employee contribution. Like the two other recommendations, this PERS equalization recommendation would be subject to collective bargaining.

Finally, the last recommendation impacting basic support is a general budget reduction totaling \$238.2 million over the biennium. Based on projected enrollment, it equates to a per pupil reduction of \$286 in FY 2012 and \$276 per pupil in FY 2013.

The Executive Budget also includes a recommendation to utilize excess school district debt service reserves as local revenues for operating purposes. The Governor's budget originally proposed \$425 million over the biennium be used for this purpose. The administration submitted a budget amendment on March 28 that reduces the recommended excess debt service reserve transfer from this \$425 million to \$301.9 million over the biennium. This is a reduction of \$123.1 million. Based on this amendment the projected debt service reserve available for transfer from rural districts would total \$27.8 million over the biennium, while the projected amounts for both Clark County and Washoe County districts would total \$220.3 million and \$53.8 million respectively.

Fiscal staff, in collaboration with school district representatives, is working to analyze the information provided regarding the debt service reserves available for transfer and verifying the level of funding that would be available should the Legislature decide to approve the Governor's recommendation.

The next sections included in the Executive Budget that are also included in the DSA budget account are not part of the basic support guarantee, but represent categorical funding.

Nevada provides State funding for special education based on the special education program units. The Governor's budget includes 3,049 units each fiscal year at a cost of \$39,768 for each unit. This funding level remains flat compared to the current biennium at \$121.25 million each fiscal year. These units do not cover the entire cost of a special education teacher, but cover a portion of the cost with the remaining costs funded through the per pupil funding provided in the DSA as well as federal funding earmarked for special education.

The State provides funding for class size reduction. Over the 21 years that the State has done so, over \$1.7 billion has been approved to support additional funding to reduce class size. The Executive Budget, as amended, and inclusive of the reductions related to salaries, recommends funding \$135.3 million for class size reduction in FY 2012 and \$136.3 million in FY 2013 representing decreases of 6.2 percent and 6.6 percent for each fiscal year. One of the budget amendments that was submitted affected class size reduction. It was needed to make a technical

correction to the funding originally proposed. The Executive Budget also recommends the transfer of the class size reduction to a new program known as the Student Achievement Block Grant Program (SABG). With the transfer, this would eliminate the requirement for class size reduction, thereby making the program an option for school districts to implement under the block grant program.

Each session of the Legislature determines the level of funding for Adult High School Diploma (AHSD) programs for the general public and for inmates within prison facilities. The Executive Budget as amended recommends \$16.3 million in FY 2012 and \$16.7 million in FY 2013 to support these programs. One of the budget amendments submitted updated enrollment growth projections based on actual enrollment, resulting in a funding decrease from Governor's original proposed budget. The Governor does not recommend transferring this line item to the student achievement block grant so it would remain a line item in the DSA budget.

The Governor recommends \$6.7 million over the biennium to continue early childhood education programs and recommends transferring this funding to the proposed student achievement block grant where the program could become optional rather than a required program based on school district needs.

The Executive Budget continues funding for the regional professional development programs of approximately \$14.8 million as adjusted by an amendment to reflect the reductions to the salary recommendations for all other budget accounts.

The Governor has two new programs he is recommending for the School Remediation Trust Fund. The first is the SABG program, which would combine the majority of categorical funding in four main K-12 budget accounts: DSA, the Remediation Trust Fund, Incentives for Licensed Educational Personnel, and Other State Education Programs into the SABG, with a goal of providing flexibility as well as increasing student achievement.

The Governor had originally included a 5.4 percent budget reduction to the funding transferred into the SABG, but submitted an amendment that eliminated the \$11 million budget reduction for FY 2012 so there is no budget reduction proposed for FY 2012. The amendment also postpones the implementation of the SABG program until FY 2013. The total funding recommended for transfer to the SABG is recommended at \$161.6 million for FY 2013.

The Governor recommends reductions to the all-day kindergarten program. This program has been funded through the State since FY 2007 and provides funding for approximately 465 full-day kindergarten positions in 128 schools statewide. The schools are selected based on a free and reduced lunch percentage of 55.1 percent of the student enrollment. Budget reductions recommended for full-day kindergarten total \$4.5 million over the biennium and include the salary related budget reductions, which total \$6.7 million. Net of these proposed reductions, the funding recommended is approximately \$41.7 million over the upcoming biennium to continue the full-day kindergarten program. The Governor recommends \$20 million in FY 2013 to support a new teacher performance pay program. The 2007 74th Legislature had appropriated funding of \$10 million over the biennium to support a performance pay program as outlined in A.B. 3 of the 74th Legislative Session. That funding was subsequently cut due to budget reductions. During the Work Session of the K-12 and Higher Education Joint Subcommittee on March 31, subcommittee members had expressed general support for the Teacher Performance Pay program, although several members did express concern that this may not be the appropriate time to implement such a program. Some members suggested that the \$20 million of recommended General Fund could be used to offset other K-12 budget reductions.

The Governor has one recommendation in the State Supplemental School Support Fund budget account. He recommends continuing to defer the funding from Initiative Petition No. 1 (I.P.1) of the 75th Legislative Session room tax to the General Fund. The State Supplemental School Support Fund was created by I.P.1 of the 75th Legislative Session that became law in 2009. According to that legislation, for the current biennium, the funding was directed to the General Fund, but beginning on July 1, 2011, that funding was to be directed to the State Supplemental School Support Fund to support the academic achievement of students and to retain qualified educational personnel and non-administrative employees. There had been discussion in earlier budget hearings regarding the I.P.1 of the 75th Legislative Session room tax. Because the 2009 Legislature enacted I.P.1 of the 75th Legislative Session, rather than by a vote of the people, there is no restriction on the Legislature subsequently amending an Initiative

Petition. If the Legislature had not approved I.P.1 of the 75th Legislative Session, and it was approved by the voters, then there would have been a three-year waiting period before an amendment could have been imposed. The funding for the room tax directed to the General Fund is estimated to be \$221.5 million over the upcoming biennium. On May 2, the Economic Forum will reforecast these revenues. Those figures will then be updated.

The Incentives for Licensed Educational Personnel is also in the K-12 budget. This is the budget account that funds the one-fifth retirement credit program as well as the incentive pay for licensed educational personnel. The grandfathered provisions of the retirement credit will conclude in FY 2013. The Governor reduces funding for the incentive grant awards in FY 2012 by \$1.9 million and eliminates the funding for the incentive grant awards in the second year of the biennium resulting in General Fund savings of \$6.1 million.

Other State Education Programs is a budget that provides pass-through funding for various programs to school districts for the Apprenticeship program, Educational Technology, Library Database, Career and Technical Education, National Board Certification program for teachers, etc. The Executive Budget recommends a budget reduction in this account, totaling \$2.1 million over the biennium. This is prorated among all programs. This budget reduction would occur in this account prior to recommending the transfer of all funding to the new SABG program. The total funding that would be transferred is \$7.56 million in FY 2013 the second year of the biennium.

SENATOR CEGAVSKE:

I am glad that you emphasized that the DSA is State funding only for the per pupil that we have. We do not have the per pupil funding that is under the Local School Support Tax (LSST) property tax, and others. Do we have a total of what the local taxes are?

MS. WALLER:

Are you referring to the total expenditure per pupil including local and federal funding? The State does not have that figure. We are not provided with that information. The school districts provide that information in their financial statements. Various organizations such as the National Center on Educational Statistics provide that information. There is a time lag. The latest information they have presented goes back to 2008. At that time the level of funding was approximately \$8,200 per pupil for total student expenditure as compared to the per pupil expenditure provided through the DSA during that period, which was approximately \$5,212. There is between \$2,000 and \$3,000 more per pupil provided by the local funding as well as federal funding.

SENATOR CEGAVSKE:

With that funding, is there any local construction funding included in any of those figures that you are aware of?

MS. WALLER:

That \$8,200 does not include a breakout of capital construction or debt service funding.

SENATOR CEGAVSKE:

Do we have an estimate of what that would be per pupil, if we included that?

MS. WALLER:

The Governor's recommendation to utilize the excess debt service reserves as local funding is a funding source to fund the per pupil in the DSA. There are multiple sources of revenues that are used to fund that \$4,877 that he is recommending per pupil. The use of the debt service reserves, if the Governor had not included that in the recommended budget, would have increased the General Fund requirement.

SENATOR CEGAVSKE:

I was not indicating the debt refund. The bond money we received from the different counties, for instance, Clark County, has bond reserve money, not the fund we are talking about. I am talking about overall construction, when we build a school. There is so much per pupil that

you divide for per pupil funding. How much in building construction costs do you add to per-pupil funding?

MS. WALLER:

We do not have that information available. We can try to find that information for you.

SENATOR CEGAVSKE:

Thank you.

SENATOR HORSFORD:

Could that information be broken out by State support, the local level support, LSST property tax? In the rural counties, there is the Net Proceeds of Minerals funding separate and apart from federal money which is restricted. There are many federal dollars, but some of those dollars are restricted. For instance, special education is not on a per pupil basis, it is on a per unit basis based on those children eligible in that category of funding. It would not be fair to take the whole federal allocation and apply it across every child because not every child receives that allocation. Separate from that would be the capital related allocation. If we could see those broken out in sections, then we might be able to evaluate more in an apples to apples comparison, which is what Senator Cegavske would like see.

SENATOR WIENER:

Could we also have an accounting of how much federal money is being brought into the State for meals programs in the classrooms? Is there a way to find out how much money we are leaving behind in Washington?

SENATOR CEGAVSKE:

What did we do in 2007 and 2009? How much of the general bond did we take? We did not take anything from the reserve, but to balance our budget we used funding from the 2007 and 2009 sessions. Can you get us those numbers?

MS. WALLER:

That was for the 2009-2011 biennium. The Legislature approved \$10 million each year from funding provided in the Capital Construction Fund for Clark County. During the Twenty-sixth Special Session, there was an additional \$25 million added leading to a total of \$45 million for the 2009-2011 biennium which was used as local funding available for operating purposes.

SENATOR KIECKHEFER:

What is the total General Fund reduction to K-12 contained in the budget? According to the chart on page 1 of *The Senate Committee of the Whole Work Session on Governor's Budget Proposal for K-12 Education*, in terms of the DSA, it is a \$596 million reduction based on what is currently allocated after the special session. Is that accurate? What would be on top of that when you consider all other budget accounts?

MS. WALLER:

Under attachment C, *Major Reduction Recommendations for K-12 Education Governor Recommends-amended 2011-13 Biennium*, K-12 General Fund budget reductions are summarized. The total, including the excess debt service reserve transfer, which reduces the General Fund required to fund the DSA, shows a total of K-12 reductions at over \$1.37 billion over the biennium.

SENATOR KIECKHEFER:

For the DSA, this is versus Legislature approved. Is that accurate?

MS. WALLER:

These are reductions included in the Governor's recommended budget as amended. Attachment C is not comparing with 2009 and the Twenty-sixth Special Session. These are actual dollar reductions recommended in the Governor's budget.

SENATOR KIECKHEFER:

So what is listed as General Fund portion would be the \$221 million, that is in I.P. 1 of the 75th Legislative Session, is not a General Fund cut. Correct?

MS. WALLER:

You are correct. That would be a reduction to the K-12 education for that funding. It would have been directed to that account outside of the Governor's recommendation to continue the deferral to the General Fund.

SENATOR KIECKHEFER:

So would the excess debt reserves. Correct?

MS. WALLER:

The excess debt service reserves is a directive to have the school districts transfer funds from their capital project or their debt service and utilize those as operating expenditures. If this recommendation were not included in the Governor's recommended budget, then the funding from the General Fund that the State would be required to provide would increase by that amount.

SENATOR KIECKHEFER:

It is a way to offset. Therefore, I should back out the \$302 million from the debt reserves and the \$221 million from the I.P. 1 of the 75th Legislative Session money from the \$1.37 billion. In the end, the General Fund portion on this chart would add up to about \$850 million. Is that fair?

MS. WALLER:

I would clarify that the debt service reserve transfer, if that recommendation was not included, that the General Fund would be \$302 million higher over the biennium.

SENATOR KIECKHEFER:

I understand, but that is not General Fund money currently that we are reducing the level on.

MS. WALLER:

If the Legislature does not approve that, then that would be a required General Fund add back.

SENATOR KIECKHEFER:

So transferring that money offsets the need for \$302 million additional in the General Fund?

MS. WALLER:

That is correct.

SENATOR HORSFORD:

We will now hear from school district representatives. The Committee would like to hear what the plans are for our district leaders based on the scenario as presented in the Governor's recommended budget and what the impacts of those decisions would be for the local school districts. If they would share with us the discussions conducted by their elected school boards on how they would approach these budget reductions to K-12, that would be appreciated.

DWIGHT JONES (Superintendent of Schools, Clark County School District):

On behalf of the trustees, the staff, students and the community of Clark County, we appreciate the opportunity to have a discussion and address the impact of the proposed budget and what impact it would have on our school system. We are working hard to redesign our system to obtain better results. We are clear on the mission. Even though we are dealing with a challenging budget, we want to stay focused on the results and the mission of the school district. In that effort, we are trying to find the right balance.

We understand that the State is in a crisis and everyone is being asked to make certain sacrifices. We understand that the Clark County School District, equally, will be in a position to make sacrifices. The difficulty for us is trying to find what is the right level of sacrifice, which I know is a difficulty for you, individually, as well as a body.

The magnitude of the expected reductions for us will be for \$400 million out of a budget of \$2.1 billion. That is about a 19 percent reduction. The reductions will require us to think

differently about how we go about doing our work. We think there could be some benefit from the downturn in the economy, providing us with the opportunity to think differently about our work. We expect to see changes across the school district.

The Clark County trustees have already declared a reduction in force. This means that some of the administrators, teachers and support staff will be dismissed. It will mean significant change to nearly every aspect of the district operations. Understanding that change is inevitable. Based on what is being proposed, it will require serious change. We will be rethinking our school environment, questioning some of our practices, examining some of our assumptions and looking to innovation as a critically important component of this transition. There is no better time to have this analysis of how we do our business. We want to start with the end goal that all students will be ready by exit.

We have had clear conversations about the investment the taxpayers make to our system and the outcome they should expect at the end of the day. The outcome should be that students should exit our system prepared for whatever is the next opportunity and that they would be able to do that without remediation.

We think there are some consistent issues to look at in our redesign to create the expectation of students being ready by exit. We think an investment in our teachers and leaders is going to be required as we make that investment. Our effort will be to have an effective teacher in every classroom and an effective leader in every school. We know, in making that investment, that we have to deal with those who would not be able to perform their duties and we will exit them from the classroom or from the school. We think we have increased flexibility to obtain a greater return. That means giving more autonomy to our schools and equally, not making that a blank check, but holding our schools accountable for results.

The school level is where education actually takes place. It is important for us to empower our schools and the leaders in our schools, including the teachers, staff personnel and the administrative leaders, and for them to have some autonomy over people, resources, as well as a budget, with the outcome being that we will have better results for all students. We know to do this will cause a decentralization of the central office. We think there has to be a clear alignment to what matters.

Though many people do not clearly understand standards, the common core standards that will be implemented are necessary. I have been supportive of Nevada's decision to adopt the common core standards. It will raise the bar and create a challenge to help teachers to teach at a higher level.

Literacy matters. To have some form of social promotion has not worked in the best interest of the students, staff or the parents who have entrusted us with their young people. Starting with the first grade, we will make certain that students read at grade level. Their failure to be on target to read at grade level will mean that we will intervene at the earliest possible level. Our chances to intervene will be less expensive and our chances for success will be higher when we intervene early. We will reinvest our scarce resources in our early childhood efforts. We will check again in third grade, allowing us to intervene early while the students are still formative readers. We will check again at the fifth or sixth grade level. These are the main pieces of the curriculum and standards changes.

There needs to be useful information and research as a platform for learning and improvement. We need to improve the metrics that guide our system.

We are supportive of the Governor's support to move to a growth model system, but with Dr. Rheault's support and his excellent decision to adopt the Colorado Growth Model as the growth model, we will implement the model in this State. Those optics will allow us to look at how we are creating targets for students along the achievement spectrum. It will also allow us to make some critical decisions for students who need to catch up. We will be able to look at an apples-to-apples comparison of how they are doing and compare ourselves, so that we may make decisions for the majority of our students who are somewhere in the middle. We need to make certain they can keep up, and then focus on those students who are keeping up and afford them an opportunity to move up. We know that our higher achieving students have not competed at the same level as other higher achieving students across other states. We must focus on students no matter at what level they are in the system.

We think the impeded growth model provides the opportunity for performance framework that defines teacher success in terms of student success. We have been supportive of conversations you have had to attach achievement to the ultimate effectiveness of a teacher as well as for that achievement to be attached to the ultimate effectiveness of administrators and the superintendent as well. The whole system should be more accountable to the achievement of the youngsters.

We want to continue to focus on choice and innovation. We think that is important whether looking at on-line learning or blended learning. We think the opportunity for parents to make a choice on where they would send their children is important to the system and important to the necessary buy-in that we need from parents. Choice and innovation will continue to be part of our conversation.

This is a brief outline of some ideas we are considering. With so much change occurring, some things will never change. One of the constants is that leadership really matters. That is leadership from our trustees, myself, and at the building level, whether it is principals or teachers. The best leaders rising to meet these challenges soak up uncertainty and help others to remain focused on what matters most. Even though we are dealing with a challenging budget and constraints, our focus has to stay on the young people who we are serving. We have much work to do. We have to continue to partner with the teachers and administrators and the whole staff within our school district to yield better results.

The proposed budget will have a major effect on the Clark County School District. We have posted a tentative budget that cuts 20 percent out of central office administration and 50 percent of the textbook and supply budget. The tentative budget decreases the level of support, whether coaching support from special education facilitators or support from English language learners and facilitators and Educator's Certification System (ECS,) literacy facilitators. We would cut those who are outside of the classroom by about 25 percent.

We have asked for union and staff to make certain concessions. These will have to be negotiated. It is a difficult balance. We have to get better results for students, but at the same time, we are asking our employees to make substantial sacrifices. We understand that this combination is not the best mechanism to obtain the results we want, but it is necessary based on the crisis we are in. We are asking employees to look at their health insurance and assume approximately 20 percent of the cost. We are asking employees to look at furlough days. The number of furlough days we have proposed for negotiation would be approximately 8 furlough days for 9-month employees, 10 furlough days for 10-month employees, 11 furlough days for 11-month employees and 12 furlough days for 12-month employees. This is a substantial sacrifice of the employees of the school district. We have proposed staffing counselors and school support staff by 97 percent in the budget.

The most dramatic effect on us is the proposed increase in class size in a district where the class size is already too large. In our secondary schools, the average class size is 33 students. We are struggling in some areas to find space if the class size increases to house, much less try to educate, all the students. We have recommended a three student class size increase for elementary schools and a three student class size increase for secondary schools. At our last trustee meeting, it was proposed using the remainder of about \$19 million that we have in Edujob funds to offset the class size by one student at the secondary level. This means for a middle school and high school, a two student increase versus a three student increase.

It is important to note that as we are trying to work our way through this difficult balance, wanting to reform our system, we have a clear vision of how we can do that. We must do it. The difficult balance is to make certain there are sufficient resources. I believe I can align some of the current resources toward the greatest need. It will take some time to do that, but I have committed to the trustees that this will immediately be part of my work in the school district. Some of the things being proposed will take holding the line, or in some cases, I may not have sufficient resources to align to some of those greatest needs.

We continue to welcome and appreciate the opportunity to have this conversation with you. We remain optimistic that even with the difficult request we are making of our employees, that employees will consider certain concessions. We understand we will have to go to the bargaining table to make those decisions, but if we do not get certain concessions, it will mean

more substantial job losses, which not only affects the school district, but also affects the city of Las Vegas and Clark County.

I appreciate the opportunity to have this dialogue. The trustees appreciate that you are continuing, as a body, to consider the impact it will have on children and staff in the school district and, ultimately, the outcome we all want for our children. I have been on this job since December 15, and have learned a great deal. We want to be responsive to any questions you may have for us. Thank you, Mr. Chair.

SENATOR HORSFORD:

You referenced between 8-12 furloughs depending upon the contract period. Which classification of workers are those for? Are they teachers, paraprofessionals, education support staff, or administration? How does that apply?

MR. JONES:

That would apply to all employees, all classifications within the school district.

SENATOR HORSFORD:

We know what a 12-furlough process looks like, because that is what our State workers have been under during the last biennium. This is a range of between 3-5 percent reduced take-home pay?

MR. JONES:

It would be approximately 5 percent.

SENATOR HORSFORD:

Are any of those furlough days intended to be instructional days out of the 180 days in the school year? Districts vary a little, but Clark County is under a 180-day instructional year.

MR. JONES:

We are trying to stay away from instructional days and do not have the liberty to affect instructional days. The focus of what is being proposed for teaching staff and others that directly support our schools are days that are outside the instructional day. The trustees would appreciate the option to say we have to look at everything, but that is not a starting place for us to focus on instructional days.

SENATOR HORSFORD:

Can you address the impact of the capital reserve proposal and how that impacts your district and explain the scenario whereby your revenues do not come in as projected. What happens? What will you be forced to do? What could be the impact on the constituents of Clark County?

MR. JONES:

I will ask Mr. Weiler to give a detailed description as he has done for the trustees and in many community meetings held throughout the Clark County School District. The trustees voted unanimously to oppose the effort to take the debt service funds believing strongly on a few key fronts that the trust of the voters is very important. We know we continue to have significant facility challenges and understand clearly that it will not be too long before we will have to go back to the voters because we continue to have roofs that are leaking, overcrowding, and to have substantial facility challenges. Part of their concern is that if the trustees or the school district do not take those funds, it will be a hard sell to the voters that they can trust that what they approved on the ballot, and whether it will be used as was intended.

It creates a challenge as to how we will pay our debt. The trustees will have to make that decision. If this becomes a temporary fix, if those debt service funds are removed and the economy does not improve, we will be right back where we are today.

JEFF WEILER (Chief Financial Officer, Clark County School District):

The Debt Service Reserve requirement was set up in 1997 when the 69th Legislative Session enabled us to have a multi-year capital program. We call it the 1998 program. It went to the voters in 1998 in Clark County. Other things have happened in other districts and some of the specifics for some of the other districts are a little different. We have something they do not, and

they have things we do not. There are three primary sources of revenue in Clark County that support our capital program. One is the property tax, which in Clark County is .5534, the rollover rate. The other two sources include the portion of the room tax and the real property transfer tax. Property tax is about 76 percent of the funding. It is going up because the other two sources, room tax and real property transfer tax, have gone down significantly during the past few years. Property taxes have gone down as well.

The Legislature set up a reserve requirement, which stated we have to have a year's worth of debt service. Our next year's mortgage payment in the bank, as a reserve is used to insulate the property tax. Without a reserve, if property tax revenues or those other two pledged revenues do not come in sufficient enough to cover the debt service of principal and interest, then the reserve is there. It is the only thing we can use it for. We cannot use the reserve for construction. Without additional authority, we cannot do anything else with it. It is there as an account to insulate the property tax. We had a balance at the beginning of this year of \$480 million and our debt service reserve will continue to go down because, starting next year, our principal and interest payments on our outstanding bonds will exceed what we project the property tax, the room tax and the real property transfer tax to be.

We have been working with staff at the Governor's level and with your staff on the numbers we are using. You will receive additional information from your staff as they analyze the numbers and reconcile issues. We had a balance at the beginning of this year of \$475 million. The issue is to look at it over a multi-year span. As we project in the next six years, that without anything, without what has been proposed here, our debt service reserve will be down to zero. That is because the underlying revenues are less than what our mortgage payment is now. The reserve is working as it was intended when it was set up. Under our projections without any of the reserve being taken, we will get through the next five to six years and will bottom out with no reserve balance. The mortgage payment should start going down as bonds mature. The property tax rate, unless we extend the rollover through voter authority, the property tax rate will start going down. If any of the debt service reserve is taken as is proposed, then we believe that within a year or two, without the debt service reserve and the property tax rate still at .5534, then we will have to increase it or we will have to restructure our bonds. That is called a non-economic refunding. It will extend our mortgage, pushing out maturities into the future so that the principal and interest payments are within the available revenues.

This is a simplified overview of the process. Your staff is working on reconciling for us as well as the other 12 districts that have a rollover issue.

SENATOR HORSFORD:

If the revenue projections under the Governor's plan do not come in as anticipated, the impact in Clark County will be, in a year to two, directed under your convenience to implement the property tax increase either through the extension of the bond or by raising the property tax rate. Is that correct?

MR. JONES:

Yes, sir.

SENATOR HORSFORD:

We will hear from the administration later. Our staff, the budget office, and the districts are all analyzing these numbers together. At some point, they have to come to a consensus as to which revenue projections we can depend on. That is a big part of this decision. I am not comfortable making a decision that could impose a property tax increase on the constituents of Clark County a year or two from now because of the decision we will make in this Legislature. There are those who are against any new taxes. This could be considered a tax increase on our constituents. The decision we make could impose that. We all need to be cognizant of that.

SENATOR HARDY:

Thank you, Mr. Chair. As I look at the *Major Reduction Recommendations for K-12 Education Governor Recommends-Amended 2011-13 Biennium (Attachment C)* given to us, the DSA has subheadings of 5 percent salary reduction, merit increases suspension and PERS equalization. Below that is the general budget reduction in basic support. Recognizing that the

general budget reduction in basic support is probably how much is going to be cut out of the base budget of the schools, how will that affect how many people are losing their jobs? We are interested in how many positions will be lost. I understand that 57 percent are teachers, 43 percent are staff. At an \$80,000 average teacher salary, with 3,000 people out of the estimated \$238 million, half of which would be teachers. That is 1,500 teachers who could lose their jobs. In the Clark County School District, there are about 800 permanent substitutes or substitutes of some kind. We are always short of people to hire leaving us with unfilled positions. How many people are getting out of the school district or are retiring? If there are 400-600 leaving, then we are down to 700-800 teachers losing their jobs due to lack of basic school support. Is that accurate?

MR. JONES:

Some of your numbers are somewhat accurate. The average teacher's salary is about \$53,000 in Clark County versus the \$80,000 you stated. You are in the range of estimating how many teachers could lose their jobs. We have some unfilled positions. Some of those were by design. We saw the difficult budget coming. There was a decision made not to do a total freeze on positions because we struggle to get math and science teachers and some categories of special education teachers. We stopped filling most positions. There were some critical positions that we still try to fill. There are approximately 400-500 potential vacancies that could be slots for teachers who be cut through the RIF process that could be filtered into. The Clark County School District has had a retirement range of approximately 900-1100 employees. We have not had those numbers come in. Using past data we could make a projection of about 1,000 potential positions. Not all would be teaching positions, but the majority would be. There would be 800 to 1,000 that could still be cut. This is a perfect storm. The Edujobs money is about to run out. We are reallocating those dollars to support the class-size increases in the secondary schools. The ARRA funding runs out on June 30. We are asking for substantial sacrifices from our employees. They have to be negotiated. If certain concessions are not realized during negotiation, those numbers could double or triple, because of the number of jobs that could be potentially saved if employees make a decision and the bargaining groups agree that there would be certain sacrifices. Some assumptions are built into our budget that could have those numbers continue to increase.

SENATOR HARDY:

Does the \$53,000 average salary include benefits?

MR. JONES:

It is about \$70,000 average, including benefits.

SENATOR HORSFORD:

How many employees would you have to lay off if the concessions were not realized?

MR. JONES:

That number would be between 2,500 and 3,000 employees if, during negotiations, some of what we have asked employees to consider is not realized.

SENATOR HORSFORD:

Has there been an analysis of what the economic impact to the economy would be for the loss of those employees?

MR. JONES:

We have done some analysis, working with Jeremy Aguero. I do not have the information with me.

MR. WEILER:

We have done some analysis. The total positions lost could be as high, without concessions, as 5,600 total jobs lost. The estimated annual impact to our economy would be about \$889 million. That takes the 2,400 positions we are proposing to cut, using the economic numbers we received from Mr. Aguero. There is about a 2.25 multiplier. For every position we

cut, the ripple effect throughout the economy is at about 2.25 additional people in the services industries.

SENATOR HORSFORD:

For a \$400 million reduction there is an \$880 million overall negative impact to the local economy. Even if you do not lay off those workers, instead, reducing their wages through these attacks on the middle class, that means less spending they have available to multiply into the economy.

MR. WEILER:

That is a fair assessment.

SENATOR SETTELMAYER:

Thank you, Mr. Chair. I am shocked that a collective bargaining unit would have 5,600 people fired rather than make a concession. I say that as an employer who took a 33 percent pay cut. My employee makes more than I do.

How many non-teaching workdays, collaboration days are there? I have constituents who are teachers who are torn on this subject of the collaboration days. Half of them love them, half of them hate them. We have four or five in Douglas County. How many are there in Clark County? Those are parent-teacher conference days and other days that are non-teaching days.

MR. JONES:

We have four days that would fit the category of what you are stating.

SENATOR DENIS:

I have heard the number, 33 students, as an average class size. Is that in secondary or is that overall for the district?

MR. JONES:

It is in secondary schools, approximately 33 students is our average class size.

SENATOR DENIS:

The recommendation, under the proposed budget, would be to increase that by three.

MR. JONES:

Our proposed budget was to increase that by three. We used some left over Edujobs money to decrease that by one. As being proposed, now, that would increase by two.

SENATOR DENIS:

In secondary, you are including middle school and high school. My concern is that in the high school, some of those classes are already large. What does that translate to when you are looking at the high school classes? I have been in some of the classes where students are sitting on the floor. These conditions exist under the current budget. So does the three translate to higher in high school and less in middle school? How will that be determined?

MR. JONES:

It will be determined by giving principals and their staff autonomy at the building site to make some decisions about what they would propose as a reduction based on the class-size increase. We agree with your assessment that we think 33 is a high number. Some of our principals would say that in some of our AP classes, that is not 33 students, but 40 students per class. Some will make the assessment that increasing class size as long as you have an effective teacher, it does not matter. I do not agree, based on experience. We can all find research that will support our positions. The research I have looked at states that when you get above 30 students, regardless of how effective the teacher is, it has an impact, especially for students who might be struggling because of the potential lack of individualized attention. In fairness to our teaching staff, we are already in a crisis mode as we are trying to increase and get better results. What is being proposed, in some cases, would put us over the top. If you spoke with teachers or principals, they would agree that it is going to create a significant challenge.

SENATOR DENIS:

How does that impact your projections as far as teachers who are retiring? Is that a higher number than normal? My concern is that we are going to lose some very good teachers because of the uncertainty of what is going on.

MR. JONES:

It would be similar to the past two years. Before the last two years, the number of retirements had been around 2,000. Over the last two years that has decreased by about 50 percent of those who have proposed to retire. We have not studied what has made a difference causing that number to go down. We think there will be about 1,000 employees retiring, with a high percentage of those being teachers. It will have an impact as we move forward. We want good, effective teachers. Seniority in many cases, becomes a value add. We will lose some of that seniority and expertise out of the classroom. I am not saying that all teachers with seniority are effective, but we find that, with experience, teachers typically improve and perfect their practice.

SENATOR DENIS:

If we are losing teachers to other states, are other states in a better situation than we are? Are they hiring?

MR. JONES:

Just having recently left the post as Commissioner of Education for the state of Colorado, the majority of states are in a similar position. They may not be at the same level as Nevada, but all states are dealing with the crisis of budget. The downturn in the economy has left no one untouched. If you are in a position to hire, there are a number of quality candidates available from state to state. Based on our RIF process, we are not in a position to hire new employees. Seniority trumps in our RIF process. We will be, like many states, letting go some of the teachers who were last hired. Many states are in a similar position.

SENATOR GUSTAVSON:

Thank you, Mr. Chair. Thank you for the job you are doing in Clark County. I like your ideas about fixing the problem of social promotion and giving parents a choice in education.

You stated there are 33 students in classes. Is this with team teaching like in Washoe County?

MR. JONES:

The projection of the average of 33 is based on one teacher with 33 students.

SENATOR GUSTAVSON:

Thank you.

SENATOR KIECKHEFER:

I am frustrated by what I heard at first. As a state, we implemented 12-day furloughs, once a month for our employees. That is 4.2 percent in terms of salary savings. You have asked for a concession that is lower than the Governor requested. If I was going to go into a negotiation knowing what my target was, I would ask for something higher than that and would try to negotiate down, instead of starting below it. If that is what you are asking for, I am concerned why you did that considering the Governor has put almost \$600 million in concessions. You asked for less and I find that troubling.

SENATOR HORSFORD:

I would like to clarify that it is 4.6 percent for the State workers. It is my understanding that the school district is in negotiations, and there may be a limitation on how much Mr. Jones can explain based on the rules of the National Labor Relations Board on contracting. Superintendent, please try to answer the Senator's question to the best of your ability.

MR. JONES:

Essentially, it is based on number of days. We are asking employees to make concessions including an increase of 20 percent in their health insurance and picking up a portion of their PERS equaling 8-plus percent, which exceeds what the Governor has proposed. We are asking for tremendous concessions even beyond what the Governor has proposed.

SENATOR KIECKHEFER:

That is not what I heard. I am glad to hear that. When it comes to a reduction in force, based on our current system of last in, first out, you call seniority a value-add. I would agree with that, but it is not the basis of value. Do you believe that within this system, we currently have, that you will be able to retain your best teachers? Are you at the mercy of State law in terms of how we allow that reduction to take place?

MR. JONES:

I want to clearly state for the record, that I do think experience counts. I think we have some experienced teachers who may not be our most effective teachers, just as we have some teachers who have been hired over the past two years who show promise. Based on the RIF process, it deals only with seniority. We would like to have conversations with our bargaining group to see how we might include other ways in looking at the RIF not just basing it on seniority. I think our bargaining agencies are willing to have that conversation. That will be part of the conversation during negotiations. We are monitoring any changes from here as well.

SENATOR KIECKHEFER:

When we talk about how these reductions would be implemented by a district, there is a difference in how they would be implemented within our current system with some of the reforms being discussed by this Legislature. We need to look at the entire situation that we are giving school districts and school superintendents to implement these cuts.

SENATOR MANENDO:

For those of us not on the money committees, this discussion is beneficial. I had an e-mail from a woman who is a teacher-librarian at Sandy Valley, Good Springs and Blue Diamond Schools. She is a librarian for all three of the schools. She is doing the job of three. Last Tuesday, her job was eliminated. Have we gone to the point of eliminating positions?

MR. JONES:

That assignment has been consistent for that employee. Those are small schools. We standardize the capacity of a single librarian to how many students. That is how we allocate. She would fit within that standard.

SENATOR MANENDO:

That position has been eliminated or is on the chopping block to be eliminated?

MR. JONES:

We have proposed that buildings work with their staffs to make proposals as to what they would ultimately cut. I am not certain I am in a position to accurately answer your question because I am not certain if in those buildings, if that has been proposed to be eliminated or not. I would have to follow up on that individually because our buildings and their recommended cuts are just starting to come in. I am not familiar whether that position has been recommended to be excised or not.

SENATOR MANENDO:

I was not certain as to whether this was already occurring or how widespread this is. This is not the first e-mail I have received from an educator or librarian who has said their position has been eliminated. She spent \$24,000 getting her master's degree and now she is looking to move out of state. She has her house up for sale. She has to go. I am concerned about that.

SENATOR CEGAVSKE:

Thank you, Mr. Chair. I asked staff for the local support funding. I would hope you will be able to give us that in a timely manner. We have a difficult time, not only from Clark County, but from the other school districts in obtaining information in a timely manner. I know you are working on the issue for me about the \$800,000 in iPads that were purchased and where that money came from. It has been several weeks since we have heard anything on this issue.

Based on the comments you made about the debt service, you said the school board voted unanimously against using that money for anything. Was that either one of the bills? Mrs. Smith

had a bill from the Assembly and we have the Governor's proposal for that money. Did they support either one of those?

MR. JONES:

The vote that was taken by the school board was that they did not feel that the debt service funds should be used for either bill.

SENATOR CEGAVSKE:

When the Capital Construction Funds and the Redevelopment Agency Funds were used, did the Board take a vote on that usage for the last session? Did they weigh in on that? Was there any objection to that money being used?

MR. JONES:

I will yield to Mr. Weiler who was here during that time.

MR. WEILER:

I do not believe they had a formal motion opposing it. There was concern about it.

SENATOR CEGAVSKE:

Along those same lines, if the money keeps flowing in and you are able to continue making payments, that fund stays there, what would you or could you use that funding for?

MR. WEILER:

Under current law, all it can be used for is debt service. We cannot use it for construction, operations or anything else. That can be changed, but we cannot change that.

SENATOR CEGAVSKE:

Let us address the construction bond money used for remodeling old schools and building new schools. There has been a lot of talk about the usage of that money for computers. Is that strictly for rehabilitation and new schools? We have a fenced off budget for technology and textbooks. We have used those reserves not used to offset budgets before. We might not need that reserve for the technology because it is not used as much as it was in the beginning. Are you using both the construction money and the reserve we have fenced off for technology and computers?

MR. WEILER:

Are you talking about the debt service reserve?

SENATOR CEGAVSKE:

No, I am not talking about that. I am asking about construction?

MR. WEILER:

In 2001, the 71st Legislative Session amended the law to allow us to purchase computers out of capital funds, bond funds and other two pledge revenue sources that are capital. We do it for new schools. We equip new schools with computers. As we do renovations and modernizations of schools, we include replacement of computers and upgrades of computers and other technologies in schools.

SENATOR CEGAVSKE:

Do you have a plan to submit to let us see what you have for renovations and what those issues are and how the funding that is left is going to be utilized?

MR. JONES:

We do, and we can.

SENATOR HORSFORD:

On the issue of the previous actions by the Legislature on any of the reserve accounts, it is my recollection that the last time it was about \$25 million that was swept. How much of the \$302 million proposed to be swept by the Governor is from Clark County?

MR. WEILER:

That is \$220 million for Clark County.

SENATOR HORSFORD:

The Governor is proposing taking \$220 million out of the capital reserve, which could impose a property tax increase on the residents of Clark County versus an action, which I know the district was very concerned about when we swept the \$25 million in 2009. The body needs to understand why this is at the level it is compared to the previous action.

The Clark County School District's bond rating has been high in the past. What impact on that rating is occurring now?

MR. WEILER:

Our bond ratings from two of the agencies have been downgraded over the past several months. There are three agencies: Fitch, Moody's, Standard and Poor's. You can see their interpretation as to why. It is in the rationale we provided. One of the factors is the potential for the debt service reserve to go away. When it has been there, they look at it as a shock absorber to say there is money there should the other money sources not come in. If it is not there, it significantly affects things. There are other factors as well. You can read the report.

SENATOR HORSFORD:

The report is on NELIS for those members who want to review it. It is the Fitch rating. They downgraded the school district's bond rating. What does that do to other local and State bond ratings when such a large entity as the Clark County School District's bond rating is downgraded? Does that mean increased interest if we borrow?

MR. WEILER:

I cannot speak for the other districts. The bond rating is like your individual credit rating. If your rating goes down, then the interest you pay on future bonds or refinancing will be higher. If ratings continue to go down, it becomes harder to issue bonds. We are still in the AA category. When bond ratings drop below AA, the number of investors looking at these bonds, significantly decreases. They are looking for higher quality credit ratings.

SENATOR ROBERSON:

Superintendent Jones, I am grateful you took this job. We need great leaders in this State. It is obvious that you are a great leader. If you get the opportunity to do the job the way you want to do it, I believe you are going to turn the Clark County School District around.

Do you believe that it is a fair statement that your employee recruitment efforts, your personnel decisions and your discretion in putting available education dollars where you believe they can be most effective are all being handcuffed or constrained by the current collective bargaining system?

MR. JONES:

That is a hard determination to make because we have had good relationships with our bargaining groups. We are all dealing with difficult times. As you are wrestling with it here, we are wrestling with it within the district.

Let me give you an example of the administrators' bargaining group. I made a decision in support of grants we submitted to the State about school improvement. We turned over half of the staff. We turned over three of the principals at the high schools being considered. Those were difficult decisions to make and difficult for employees. They were important decisions for us to make to be certain we turned those schools around. It was necessary for us to be in a position to have those funds awarded by the State. There are incentives to recruit. There is pay for performance going into those five schools that are being turned around. We asked that when considered in the RIF process, that the administrative team hired would not be RIFed. If we turn over the staff, and then hire new staff, then if the RIF process comes in and that staff intentionally hired to help turn that school around is moved out, we did not think that would be beneficial for the school. The cooperation of the administrators' bargaining group was very helpful.

We continue to have good dialogue with our bargaining agreements. You may not think I am giving you a straight answer because it is difficult to give you a straight answer. I have not sat at the table yet and negotiated, but as I look at the history, looking at empowerment, it was our teachers' union who stepped up and collaborated with us in the relationship to empowerment. They looked at it in a different way and looked at in a different way of autonomy. I remain optimistic about the bargaining table on the tough concessions we are asking for and about things, we are talking about in redesigning our system. These will also take cooperation from our bargaining groups just like the school improvement grant I just illustrated. I remain optimistic that they get it. We are all in this together. We will be successful in doing this, but it will be difficult because we are asking them to make some difficult choices.

SENATOR HALSETH:

Thank you, Superintendent Jones for being here today. Will you provide me with a line-item list of what exactly Clark County School District is spending money on? How much money for each item? And by the end of next week.

MR. JONES:

Thank you, Senator. I can provide you with our budget. Our budget would have a line-item list. That is already public. We can send that to you. There is an explanation that goes into different line items that may take some work on our part. I appreciate the question, because, since being appointed superintendent, one of the things we want to be is transparent on a lot of fronts. Budget is one of those fronts. We are working with our technology staff to take what you are requesting, though, perhaps not at the detail you are requesting, to have that posted so that the public can clearly see what resources are being spent and what they are being spent on. I want to take that a step further to have a category that says what has been the return on the investment. To show what kind of a result we have gotten for that expenditure. It will take a while to do that, but that is part of the goal.

MR. WEILER:

We submitted, on April 15, our tentative budget to the Department of Taxation, which includes a fair amount of detail. It is the prescribed detail we are required to submit. We will do an additional submission after we do the final budget in May. We have to submit that by June 8. I do not know how that might make its way to this body, or in what form you might see that. That is a prescribed method we already do. That might be adequate. I do not know beyond that, what detail you might want to see.

SENATOR HORSFORD:

If you could provide that link to our staff, we can make it available to all the members.

SENATOR HALSETH:

That is a great point. But I would like to state it is important for us to look at the budgets. We are having a Committee of the Whole and want to discuss the budgets. I think it is very important to look at each line item especially since the districts have chosen to spend over \$800,000 on iPads instead of employing teachers. I would like to see that in your budget line item, as well. Since you say you have it ready, I think it would be okay to ask for by the end of next week.

SENATOR LESLIE:

Thank you, Mr. Chair. Superintendent, I would also like to thank you for your leadership.

There is \$20 million in the Executive Budget for teacher pay for performance. I was here in 2007 when we appropriated \$10 million for the same purpose. That was swept due to budget reductions. Since I do not sit on the budget subcommittee for education, I have not heard the discussion. Have the superintendents talked about whether this \$20 million should be spent in this way. Given all the other cuts, do you have a preference for us to reallocate that money?

MR. JONES:

We have had some discussions as a whole and Dr. Morrison, the Superintendent of Washoe County Schools, and I continue to discuss this. We know that between the two districts we

represent about 90 percent of the students in the State. We are supportive. We understand we have difficult decisions to make. We are supportive of the Governor's signal that we want to invest in determining how we reward some of our brightest that are also beating the odds to get results. It is a hard decision to make because there are so many things on the table and jobs are being lost. Those are tough decisions. Even making tough decisions, you have to keep your eye on the prize. We have been supportive of the Governor's initiative to say, "Let us figure out how we invest," and this may be a good way to either do a pilot project or take a look. We currently have empowerment schools. There are 30 of them in the Clark County School District that are under a pay for performance model. We are concerned about how we sustain that. With all things being considered, we like the signal the Governor is sending.

SENATOR LESLIE:

That is the tough decision that is facing us. Save jobs. Do teacher pay for performance. I would be interested in your ongoing opinions as we get close to making a decision.

I appreciate your comments that have been supportive of teachers. Many teachers are feeling attacked. It is refreshing to hear someone support the staff and talk about the sacrifices they have made already, along with the pay reductions, benefits reductions, merit pay being taken away, as you list them. Those teachers who have studied for their graduate degrees are not going to receive what they thought their contract called for. There is the reduction in textbooks, instructional supplies, and adding three more students to their class. It is grim to be a teacher these days.

Looking at the education budget, the superintendents know better than anyone does what the impact will be. Looking forward to the next two years and to the future of K-12 education in our State, what would your recommendation be to us? Is there any hope within the confines of the budget where you would realign something? Is there any advice you can give us on what you would do, or is it simply that there is not enough revenue in the K-12 education budget to make certain that what all of us want is for every child to have a quality education, every teacher to feel safe in their classroom and to have the resources they need to make certain that every child can succeed? I would welcome any closing thoughts you would have.

MR. JONES:

I have been consistent with my trustees as well as with the Clark County community. I want to be consistent with you. The budget is a tremendous challenge. With that challenge, we have to stay focused on getting better results. If I did not believe that, I would be recommending to the trustees to get a new superintendent. Regardless of the challenge, we have to keep our eye on the prize. We will be graduating thousands of students. We know that our drop out rate is too high. We know that a number of those students are not prepared for a post-secondary or even the workforce at the level you and I want for our children. The task is great. I remain optimistic.

I have asked for a detailed audit. I have asked for the private sector to support it. I do not want to take any dollars out of the general fund budget. I just received word that I think it will be supported. It is not just an audit, it is an analysis that looks at what we are spending our dollars on. Clark County is no different than other large systems. We do a lot; however, we never go back to ask if what we do has the intended result we wanted. You have to look past just an audit. You have to ask what the return is on the investment. I do not know if I have too much money or if I do not have enough money. When we can look at the data, when I can say, "what have we been spending money on and what could I reallocate to spend those resources on," then I will know if I have enough or if there is too much. Until I know, holding the line makes a lot of sense for the school district. That is a difficult thing to ask, because we are in a crisis. We have to have time to focus on what matters most to get the best results. We have to implement the growth model system to look at a new accountability system. Start with me first. I have to be accountable first. If I cannot get it turned around to get better results in the next three to five years, the trustees will not have to ask me for my resignation, I will go to them. I have to create that accountability system across the system. There are some things that we are going to do that will send clear, transparent signals to the community. If I am cut too deep, it will be hard for me to build those systems and to train the staff in the way I need to train them, to get the results we want. It is one of the reasons, without knowing, we have said holding the line makes sense for the school districts.

SENATOR HORSFORD:

You referenced, "holding the line." I want to clarify what that means. Under the Governor's budget, the Clark County School District would be impacted by \$400 million. Are you saying, "holding the line" at the reduced level of spending as proposed by the Governor at a \$400 million reduction, or are you saying "holding the line" at some restored level of funding beyond the Governor's recommendation, recognizing there will be no increased funding and that there will be some level of reduced spending on K-12 education for the next two years?

MR. JONES:

I am talking about the latter. Clark County was already looking at \$186 million deficit. We would look to try to hold the line that would not have the potential \$400 million that is being proposed.

SENATOR HORSFORD:

I think this is a fortunate time for the State of Nevada and the students, parents, community and business leaders in our respective districts. We have two of the top rated superintendents leading our two largest school districts during a period where we desperately need their expertise. I do not know everything about Dwight Jones and I do not know everything about Heath Morrison, but what I have heard from them both is a commitment to do things differently, to put students first in every decision and to tackle the real and perceived inefficiencies at the administrative and central level. For far too long, in Clark County, we had a central school district where too many resources went in and not enough went out. Now, that when every dollar is being looked at and when every dollar should be accounted for, there is a commitment to put those resources where they need to matter most, in the classroom. I hope that as we make our decisions, that we will empower you and Mr. Morrison and the other districts to have the resources and the tools to provide that quality education that we want for our own children, for their peers and for the State as a whole. I hold you to your word that you will take the accountability of the funds that the State provides seriously and that you will do everything to ensure that every dollar is spent where it matters most. With that level of commitment from you and the other superintendents, then we can find that consensus to restore funding at an appropriate level.

Next, we will hear from the Washoe County School District.

CRAIG HULSE (Washoe County School District):

It is a pleasure to be in front of this body, again. A year ago during the Special Session, I had the opportunity to discuss the same topic, budget cuts at 6.9 percent. I would like to thank you for hearing this budget in the open. We have had many of these discussions in various subcommittees. I appreciate the Governor and his education reform package elevating the culture of education in Nevada. We have had good dialogue in the education committees on his bills. I appreciate, as a taxpayer, a no new taxes budget as promised.

Representing the Washoe County School District, we are here to respectfully not agree and to not support that budget. To the Washoe County School District, this budget would be a \$75 million cut when you count State, local and federal funds. Each year, for the biennium, after already cutting \$73 million over the four years, we cut \$37 million out of our budget. That was partially from the 6.9 percent cut made in the last Special Session.

In the Washoe County School District, we are holding our people accountable. Our community is holding us accountable. We have developed an aggressive strategic plan with our associations, with our community. Many of you have received an outline of our goals, the accountability measures, and the performance you will have from the Washoe County School District. When the strategic plan was put together, it was not based on additional revenue. It was not an unrealistic strategic plan. It was based on not cutting revenue as was discussed by Dr. Jones. We viewed it as a best-case scenario from our current budget that we have now. This past year, we increased test results. We improved graduation rates by 7 percent. We recognize the need to improve and to get better. It is difficult for us to keep coming back to the Legislature where we are held accountable for increased results at 7 percent last year, and then we are cut an additional \$37 million. We will continue to do the best with what we have. We will continue to

strive to meet the strategic plan and to get every child to graduation, which is the goal for our strategic plan.

As the Chair mentioned, Dr. Jones and Dr. Morrison are two outstanding reform-minded superintendents in the State who represent 90 percent of our students. They have the State going in the right direction. They have the infrastructure in place to make education and student achievement better in Nevada. Not supporting this budget is the Washoe County School District's opportunity to show that this could possibly hinder and not improve student achievement regardless of the efforts made by both superintendents.

I will now address what has been proposed by the Governor. There is a 5 percent pay cut for all of our employees. That equals \$17 million. There is a 25 percent PERS contribution equaling \$14 million. Both items would need to be negotiated. The two amounts equal \$31 million. That leaves us \$44 million short. Under this budget proposal, jobs will be lost in the Washoe County School District.

There are a few misconceptions about budgets I would like to address. There has been discussion about top-heavy administration. It has been stated that we can always cut more administrators, we can cut administrators' pay, and that we have too many administrators. The National Center for Education Statistics (NCES) says the national average of students to administrators is 221 to 1. In the Washoe County School District, it is 381 to 1. As we lag behind many other states in funding and other categories, we are also behind in the number of administrators in the school district as well. I also hear, constantly, about data. Everyone wants to put out data. When you work in education, you can find almost any data to represent any view you have. There are numerous studies available on anything you can imagine. I hear a lot about how in 1959 we were spending \$3,100 per student adjusted for inflation. Now we spend over \$8,000, adjusted for inflation, and we do not have any test results or anything to prove that spending matters. The national average in 1959 was \$2,800. We were spending over the national average then. As the world of education has evolved over the past 40 to 50 years, and the challenges continue to become greater, we have fallen behind the rest of the country in per pupil funding. I hear a lot about how we keep increasing funding but graduation rates are going down. I see much data thrown at the school districts. As every one knows, during the last six years in Washoe County, costs have gone up to educate a child. Poverty, mobility, English as a second language adds to the costs to educate the children.

These past six years have seen changes. In the last six years, our free and reduced lunch rate has spiked by 33 percent in the Washoe County School District. While this body feels a lot of the economic stress from reduced tax revenues, we see the economic stress in our students every single day. Thirty-three percent is a large number. Six years is not a long time, but it is the challenge we, in the Washoe County School District, face today. In addition, in the past six years, our English as a second language rate has risen 30 percent. As the challenges get larger, and our budgets continue to be cut, these cuts are real, and these students are real with real challenges.

Everyone asks if we spend too much on education. They ask if we do, or if we don't spend enough on education. I ask you, do you ever ask if you spend too much on your 401(k), or if you do not spend enough on your 401(k)? It is an investment. You do not spend money in investments. You invest money. The more you invest the better results you have later on.

The State budget is 40 percent public K-12 education. It is one of the few dollars you can spend for taxpayers that will show an investment and a payoff over the long term.

I understand, and the Washoe County School District understands, the challenges before this body. As we discuss various reforms and various budgets before the Legislature, including taxes, the one thing we can promise from the Washoe County School District, the Board of Trustees and Superintendent Morrison is that with our strategic plan, every dollar invested in the Washoe County School District will be an investment and will be worth the taxpayers' money.

SENATOR SETTELMAYER:

Thank you, Mr. Chair. Last night Dr. Morrison stated that Washoe County has been working hard with its collective bargaining unit. We had testimony from Clark County earlier today stating what could happen as far as layoffs. Mr. Morrison stated that he has had a good working relationship with those collective bargaining units. In the last year, the State workers took a

4.6 percent pay cut. What percent cut or increase did the individuals in Washoe County receive last year? Was it a cut or increase? At what percent?

GARY KRAEMER (CPA, Chief Financial Officer, Washoe County School District):

A step increase of 2.7 percent was forgone. We did furlough days of between 2, 3, and 5 days, and 10 days for the Superintendent. It was somewhere between 2 and 4 percent.

SENATOR MANENDO:

Thank you, Mr. Chair. I listened to the testimony last night. I heard a story about one of the classrooms in Sun Valley that when it rains, it leaks into the classroom to the point that the school needs to be leveled and rebuilt. Could you elaborate on that? How would this budget affect something in a situation like that?

MR. HULSE:

I believe that was during the discussion of the debt reserve sweep proposed in this budget. The Governor's proposal sweeps \$54 million from the Washoe County School District. I do not know what the amount was from Clark County. The majority of the sweep comes from the two largest counties. That proposal removes about \$75 million in bonding capacity that we could bond for certain projects to address the problems like Sun Valley Elementary if it needs to be rebuilt. There is a huge community effort that goes into a lot of public meetings to determine the needs for that. That is something that would not be able to happen under this proposal. We have funds available from construction savings. The Governor's proposal leaves \$2 million of governmental service tax for emergencies if the roof is leaking or for something like that. At a certain point, it is not economical or fiscally responsible to keep patching up schools that need to be torn down and rebuilt. Under this proposal, we would have to continue to do more with less or eventually close that school if it gets to that point.

SENATOR HORSFORD:

We will now hear from Dr. Roberts on behalf of the Association of Superintendents.

DR. WILLIAM E. ROBERTS (Superintendent, Nye County School District; President, Nevada Association of School Superintendents):

I admire and respect your dedication and devotion to the citizens of Nye County and the rest of Nevada. Senator McGinness, thank you to your service to our students as well.

I have the opportunity of being the President of the Nevada Association of School Superintendents as well as the Superintendent of Nye County. I would like to address some of the issues facing the rural districts in this State.

In a recent Assembly Ways and Means and Senate Finance Joint Subcommittee on K-12 education, the superintendents of Nevada's 17 school districts were asked to provide additional information related to proposed budget cuts. This document we provided is a response to that inquiry.

Superintendents were asked to respond to the following questions, based on the dollars that would be available if the Governor's proposed budget were to be passed by the Legislature. The questions were as follows:

Would school districts' class sizes increase at the elementary, middle and high school levels? If so, what will the class sizes be in the future?

Will staff be reduced? What are the staffing levels before and after reductions if reductions are necessary?

If the Government Service Tax is taken from your district, what will be the dollar impact to your district?

If the Governor's recommended budget is enacted and the budget cuts take place, what cuts will districts make to balance their budgets?

A survey was conducted with all 17 school districts in an attempt to answer the above questions. Please note that the districts were asked to use the following assumptions when answering these questions:

No concessions are given by the bargaining units.

Some discussions regarding the issues had been held with the Board of Trustees.

The Government Service Tax estimates are from the projected revenue for each district for fiscal year 2011-2012 and use the numbers provided by the Administrative Services Division on March 15th, 2011. These numbers include both the school operating and bond portions of the GST.

Please note that the Clark County School District has also provided information about the amount of money their district will lose if the I.P.1 money scheduled to go to the district in FY 2011 is diverted to the State General Fund.

I have included a survey taken of the 17 school districts in March 2011, which reflects the budget reductions school districts have taken since 2008, coupled with the reductions that are currently being proposed.

There are many nuances to the K-12 budgeting and it is a complicated process. Therefore, no survey will be perfect as each district may account for various areas significantly differently. Nevertheless, we hope these surveys will give you a broad picture of the issues facing Nevada's school districts and more importantly to us in the 15 rural school districts. The larger districts have already commented. Thank you for your continued work on our behalf.

The survey (Exhibit D) is available in the NELIS system.

DR. CAROLINE ROSS (Churchill County Superintendent of Schools):

Thank you for the work you do on behalf of our students and our teachers and for giving us the opportunity to participate in this conversation, today, because I am preparing for a Board meeting tonight in Churchill County. Much of the discussions you have had will be continuing. I have been asked to share with you what is available on your computers and that I might have the opportunity to give you some guidance on using this document. This document (Exhibit E) includes each of our enrollments. It includes the class size as well as the size after cuts.

In Churchill County, we, like many of the other districts, are having conversations and are making outreach efforts. Some of you came to Churchill County to work with us and to learn information about our community and our current status. We are in our fifth year of budget cuts in Churchill County. I would like to discuss the *Planned Program Cuts* item in the chart we have given you. There are some common themes and I would like to discuss how they specifically relate to Churchill County. These are proposed in many cases throughout the State. School boards received information that they could work with their budgets on March 28. In less than a month, we have had some information that could give us some guidance as to how to have these conversations with our school boards.

Should the budget proposals materialize, there is a theme of no textbook adoption in many of the school districts. If we have not cut art, music, computers and P.E. those will be likely to go, as well as implementing pay-to-play. Some of us have already implemented that and to reduce the interventions, we have worked to prevent some of the issues that we currently have with student performance.

In Churchill County, we have the opportunity to serve the Naval Air Station in Fallon, which trains world-class Top Gun pilots. We also serve our Fallon Paiute-Shoshone Reservation students. We have a great deal of diversity and opportunities to serve and to outreach to these students. We understand our mission. This is my eighth year in this school district. For eight years, we have been focusing on student achievement. If you look at our district, we have been improving student achievement over time, even with our budget reductions. We take seriously your direction to become more efficient and more effective. We believe we have evidence that is occurring in the performance of our students.

We are also taking the new direction from the federal government Common Core seriously. Our Board understands the implications for the delivery of students throughout Nevada. Common Core is a major culture change at the same time we are undergoing culture changes here in our State. It will demand that we provide an additional rigor to all students in order to get them to perform proficiently, not keep doing what we have been doing. We have been reforming in our school district. In Churchill County, we do have collaboration time that we use specifically for professional development amongst our teachers. We believe we may have results and a model that has been adopted by others and has been working effectively. We get feedback from our teachers frequently and regularly on many facets of that collaboration. Our school board is continuously looking for best thinking. Not just thinking, but best thinking. How do we

reach out with these various communities that we serve and bring out the very best. In the eight years I have been there, that has been the challenge. As you know in the work you do for us, everything else seems to float to the top and get attention.

We have been involved in town hall meetings, meetings with our staff, meetings with our businesses, our community, our master plan task force and making those efforts.

One thing that has been clear to us, and I see it at the State level, is that it is difficult to remain tough on the issue. In times like this, we want to be tough on people and most of the people in this room are probably much like the people I serve, recognizing that people are probably doing about the best they can with the information they have. Being soft on these people that are in the classrooms, in the hallways, in our buses, and by saying being soft I mean they may be doing the best they can, maybe they need more training, they may need more time, but like you, they do not have all the information. Given the opportunities, they step up to the plate. I can personally attest to that for Churchill County.

We are a county who is looking at a new charter school coming in and taking 180 of our students. We are decreasing about 200 students a year. This prompts difficult decisions for our school board. They are considering many options, including closing our schools and the items I have discussed contained in the information given to you.

We have a graduation rate of 86 percent. We hope that through this, you all keep these things in mind as you go forward to make the best decisions for our students and our staff.

DR. ROBERTS:

Nye County School District is the largest single school district in the United States. It covers 18,000 square miles, 7 towns, and about 6,000 students. We have 18 schools. Our ratio of administrators to students is 1:370. That is one of the highest in the nation.

The economic impact of schools and school districts in Nevada. Clark County School District is the single largest public employer in the State and the largest employer in Clark County, providing over 35,000 jobs. Washoe County School District is the largest employer in Washoe County. There are over 8,000 employees. Humboldt, Lyon, Lincoln and Nye County School Districts are the largest employers in their counties. Carson City, Douglas, Churchill, Eureka, Elko, Esmeralda, Mineral, Pershing and White Pine School Districts are the second or third largest in their counties. Lyon County and Nye County are two very stressed counties in Nevada and nationally ranked. The problems we have when we lay off individuals in rural areas and in the small communities, is that there are not other jobs these people can obtain. As a result, they leave. They leave the State, they leave their houses, and they are no longer able to pay their mortgages. Consequently, they do not pay sales tax and there are other economic factors mentioned earlier, 2.5 jobs for every one we lose. Take that into consideration the teachers we lose now, and those who are leaving. I had a science teacher who taught the highest level of science we had in Pahrump. Over the Christmas holiday, he left for another job, giving ten days notice. He took his wife with him who was a special education teacher from Clark County. They gave the reason that they saw what was happening. They have been a part of the last few RIFs and had enough. We lost two of our best teachers.

Nye County School District has, in preparation for this tsunami coming upon us, closed a school in Pahrump and Mt. Charleston Elementary. It is a long process to do. It is emotional. People are attached to their institutions particularly when their brothers and sisters, mothers and fathers have attended those schools. Our elected board made tough decisions based on dollars and cents. You can save money on power, water, sewer and the staff associated with that school, and then distribute those students across the entire valley to schools who have empty classrooms as a result of 234 fewer students this year compared to last year.

We have tough decisions already. We did not invest in textbook adoption. We are replacing those textbooks we need only to maintain the current level of instruction. Our graduation rate is about 79 percent. Our dropout rate is 0.8 percent. This is an improvement from years ago. We try to do the best we can with every dollar we have. We will continue to do so.

The school in Tonopah was closed last year for that reason. Even with all of that, if the Governor's budget was implemented we would lose 107 employees in the Nye County School District. That is about 10 percent of our total population. We have 2 district administrators, 2 school principals, 65 teachers and 40 support staff. For those of you who understand rural

communities, when you have a school in Gabbs with a K-12 enrollment of 60 students, you cannot put 40 in a classroom. You have to have highly qualified teachers in those subject areas to ensure those students receive an education. In Duckwater, we have one teacher in a K-8 school for 16 students. In Amargosa, there are 190 students in the K-8 school. In those small schools, you have to do what you have to do to ensure you have the ratio to provide an education. In Pahrump, we might have 30-40 students in a classroom. It is difficult to try to fit them all in there. There is a fire marshal code for the number of square feet per student, let alone the effect on education by increasing the number of students per class. I wish you would consider this.

I would like to address the bond issues of taking the debt service account away from us. We have two major construction projects under way in Pahrump. We have an elementary school, which is a replacement for a trailer park school. It should be open in June. Our high school is going through a \$28 million renovation. The school was built for 650 students. We have 1,400 in that school. We will be housing those students in buildings that are more economically suited, efficient, safe and with the latest technology and adding those CTE skills necessary for students.

A big concern is in Tonopah where we have been working a year with the citizens who voted in 2007 for a bond to have a replacement school. That will house a K-8 student load for the entire community. It is an \$11 million to \$12 million project. We have spent several hundred thousand dollars on engineers and architects to design the school. It is getting ready to go out for bid. If that bond money is taken, we will probably not be able to do that. If this passes, we will not be able to build the school because we will not be able to make our mortgage payments. Two of our communities are already capped at the amount of money that they can be taxed. If a school district does not have the money to pay its mortgage, other governments will have to make up the difference. Those taxes will be modified in those communities. The school district, by law, could be required to pay back that money from the General Fund to those communities to make up the tax loss.

SENATOR HORSFORD:

I appreciate the spreadsheet you prepared for us. Where is the Lund School that is proposed for closure?

DR. ROBERTS:

The Lund School is in White Pine County.

SENATOR HORSFORD:

Why is that school being proposed to be closed?

DR. ROBERTS:

The superintendent from that school will have to address that specific issue. I understand it is a cost savings. We have looked at how much it would save to close the school in Amargosa and bus the students an hour to Beatty. It is strictly an economic decision. If you have the facility. You can reduce the staff at the other facility and save several hundred thousand dollars.

SENATOR HORSFORD:

I have been getting e-mails from the residents in that community who oppose sending their child on a bus an hour each way to school just to hit a budget target. It does not seem to make much sense from a quality of life standpoint.

DR. ROBERTS:

I concur with you in that. If we do not have the budget reduction, then we will not be transporting our students. If the Governor's budget is enacted, if that is what you have to do to provide the education, then that is what they have to do.

SENATOR HORSFORD:

In White Pine, do they have 1,400 students, but only 100 certified teachers? When we were in Fallon we heard from them that a reduction of their work force of 10 percent to 15 percent means 10 to 15 teachers of the 104. Does that mean one math teacher, one science teacher, one person with a credential to do that class, if so, if that position is eliminated, how will those

students be taught the subject matters they are required to meet the standards of the State to graduate?

DR. ROBERTS:

I do not have the specifics for their break down, but the *Nevada Revised Statutes* (NRS) require that you have highly qualified teachers in the schools to provide the instruction necessary for the students to graduate from school. My assumption would be that they would load up the classes available for students to receive the instructions required. Those classes that are not required would be eliminated.

SENATOR HORSFORD:

According to the information provided, in the Pershing County District, they have no ending funding balance?

DR. ROBERTS:

If that is what the superintendent stated, then that is what I am told.

SENATOR HORSFORD:

Eureka and Lander Counties are the only two counties that receive the net proceeds or are there others?

DR. ROBERTS:

There are several other counties that receive net proceeds of mines.

SENATOR HORSFORD:

This spreadsheet you provided for us, only shows Eureka and Lander that do not receive DSA allocations based on their local support. Is that true?

DR. ROBERTS:

That is correct.

SENATOR HORSFORD:

Eureka has 239 students with 32 certified teachers. That county has a huge reserve based on their increase of net proceeds of minerals. I do not understand how certain counties like Clark County and Washoe County are being singled out. There is \$220 million coming from Clark County out of their reserve, \$54 million out of Washoe County, then a rural county with only 239 students has a reserve and the Governor is not proposing to sweep that. I do not understand that. I will ask the administration.

SENATOR MCGINNESS:

Thank you, Mr. Chair. Dr. Roberts, would you explain what you said about the collective bargaining units. Is there any indication as to what the 15 rural counties might do to try to maintain jobs?

DR. ROBERTS:

We have met with each of our three collective bargaining units, administrators', classified and certified. We have asked that they take the concessions that have been proposed in the Governor's budget of a 5 percent salary reduction, 25 percent reduction in PERS, a freeze on the longevity step increase and a few other items. We have not had any response from the units to date that I would characterize as encouraging. At the last negotiations, there were a number of furlough days by the school administrators and they paid ten percent of their health insurance. At the district level, non-union staff took four-day furloughs. I took a ten-day furlough. The classified and certified, took no reductions.

SENATOR MCGINNESS:

You talked about if the Governor's budget is approved you would not be able to build a school. The State does not provide money for capital construction. It is just used for operating. How would that affect your ability to build a school?

DR. ROBERTS:

The capital funds for us comes from our government support tax for our daily maintenance and operations of the district as well as buying a school bus or two. The Bond Reserve Fund bond money is what we use to build our construction projects. In 2007, the voters of Nye County approved a bond project that at the time had an estimated value of somewhere around \$100 million to \$120 million. That was projected based on many things that have changed. You only sell the bonds you need to build the projects you have at the time and your ability to repay that. If our bond money to pay the debt is taken, our bond rating would drop. Currently, we have a rating of AA. The cost to borrow money would be greater if we had the ability to repay it. My concern is for the voters in Nye County, who are now paying the property tax to have these things constructed, and we may not be able to do it.

The school in Tonopah is very old and has a significant amount of work for Americans with Disabilities Act (ADA) compliance that needs to be accomplished. Rather than throw good money into a very old school, it was the decision of the community and the Board of Trustees to replace that school with something students would be proud of and will last for decades.

ANDREW CLINGER (Director, Department of Administration, Chief, Budget Division):

I will present an overview of how we got to this point. Nevada has been hit harder than any other state by the Great Recession. You see that in the numbers you are aware of. We lead the country in foreclosure, in unemployment, in wage declines. All of those indicators have had a tremendous impact on the revenues that we collect to fund the State budget. The Economic Forum forecast a \$5.3 billion of funds available to fund the Governor's Executive Budget. Going through the budget process and putting that Executive Budget together, we tried to take a balanced approach in putting together the Governor's Executive Budget. The Executive Budget does include an additional, almost \$1 billion in revenue added to that \$5.3 billion. That includes the debt reserve sweeps, as well as property tax. It is not just cuts that we have proposed in the Governor's Executive Budget. There are other things that we have put in to help balance this budget. Some of the items we have had to deal with in putting this budget together and the reason we have had to make these provisions in the budget is that we have had to deal with the loss of, not only State revenue, we have also had to deal with the loss of federal funding, case-load growth and loss of local funds to the school districts that we have to make up. In the loss of federal funding, the ARRA funds, the impact from that on the upcoming budget was about \$450 million. A good portion of that funding went to higher education in the last legislative session. Part of that went to the Department of Corrections. We also had increased matching funds for our Medicaid program, all of which are gone now. In addition to that, we have had caseload growth that we have had to manage in the Department of Health and Human Services. We have had to put an additional \$270 million in the Governor's budget to deal with those caseload increases. In addition to that, the loss of the LSST funding that goes directly to the school districts as well as the loss of property tax revenue to the school districts had to be made up as well. That was an additional \$440 million. In addition to that, we are forecasting almost \$1 billion will have to be paid back to the federal government for unemployment insurance that we are currently borrowing to provide insurance coverage to those who are unemployed. The cost of that to the State, just in the next two years for the interest, is \$66.3 million. That is \$1.2 billion of additional requirements put on the State as we put this budget together. The budget we proposed takes a fair and balanced approach not only on the expenditure side, but also on the revenue side.

HEIDI GANSERT (Chief of Staff, Governor Sandoval):

This budget was difficult. I appreciate Andrew's work and the effort that was put into really going through it line by line to make certain we could balance this. Our Governor recognizes it is very important to allow this economy to recover. We recently had the good news that unemployment has dropped a little. It is still very high, but it has dropped. We have some job growth for the first time in 37 months. This is the largest month-to-month job growth since 2005.

I appreciated the comments made by Superintendent Jones. This administration has been focused on reform. It is apparent from his testimony that even though there are budget cuts, that he is focused on reforms as is Washoe County Superintendent Heath Morrison, who was able to

testify last night. We agree on many things. We agree on the accountability, on data analysis, we agree on looking at student growth, on literacy as being important and ending social promotion. We agree that part of the formula has to be the success of the students.

I would like to address the document provided by staff, *The Senate Committee of the Whole Work Session on Governor's Budget Proposal for K-12 Education*. The document discusses enrollment, growth and the basic support. Even though we have cuts to this budget, if you were to look FY 2011 versus FY 2007, the growth in enrollment versus the growth in basic support, you would find that basic support outpaced enrollment by five times. If you look at the reductions, the proposed numbers for FY 2012 versus FY 2007, our spending, still with these cuts, is outpacing the growth of enrollment. Those may be surprising numbers, but take the numbers and back them out. Even with the cuts we are doing fairly well. We looked at ranking per pupil revenues. We looked at the NCES for the most recent data we could get. There have been questions about different types of funding, basic support versus total support versus total support with capital. The numbers we have actually have Nevada shown as twenty-fourth of fifty-one as far as funding.

It seems there has been some confusion about how we are proposing to adjust salaries for all school district employees. These would be licensed personnel and other personnel. Basically, we are trying to make them closer to equal to a State employee. If you were to take a teacher with an average salary of \$54,000 and compare that teacher to a Social Worker II and they are affected by PERS and by the pay cut, they would have the 5 percent salary cut. They do not contribute to their PERS. Their net would be whatever their furloughs may be, but their top number would be \$54,000 and their net would be close to \$54,000 depending upon whether they took a 1 percent or 2 percent pay cut or if there was a furlough day. If you look at the current State Social Worker II, with the same salary level, they would have a 5 percent cut equal to about \$2,699 and they would be contributing half to their retirement contribution. The rates are going to go up to about 23 percent. There is an additional 11 percent off their pay roll that would be deducted. Their net pay would be substantially less.

Given that PERS has been paid for completely by the taxpayers this is an incremental portion. All State employees pay 50 percent. The Governor's proposal is that they pay 25 percent. We recognize that is something new to them. It has been paid on their behalf in the past. The average teacher works 9, 10, or 11 months. Earlier when the furloughs were discussed, it depended on how many months a year the teacher was working versus the Social Worker II at 12 months.

We looked at how our teacher pay ranks on a national level. We looked at an NEA study and found that our teachers were in the middle. We were 23rd out of 51 states. We cannot tell from the data if that includes the PERS contribution being paid on their behalf or not. It may be higher than that. We are not certain. We recognize it is important to pay teachers well. We think the State has done a good job of doing that.

In the Governor's budget, the salary adjustments comprise 70 percent of the total cuts to education. When you look at the total dollars being cut, 70 percent is an effort to make them look more similar to other State employees. If they were to pay the full 50 percent of their PERS, it would be closer to 90 percent of the adjustment. We recognize that all these numbers have to be collectively bargained, but we are trying to pay instructional and non-instructional personnel more like State employees.

We have had many questions on debt reserves. We have asked if we are sweeping them or not sweeping them. School districts who issue bonds have two accounts. They have a capital account where they budget their construction and they have a reserve account. The reserve account is required to have 12 months of interest or 10 percent of the balance of the outstanding bonds. We are not using any money from the Capital Construction Fund. In the past, we have. That was discussed earlier today. In 2009, there was \$10 million and \$25 million in the Twenty-sixth Special Session taken out of the construction account. The reserve account is money where there is a variety of income streams that go into it. It is fenced off. The money has never been used, to our knowledge. We do not know of any school district that has ever tapped it. It has been used for construction. It has not been used for ongoing operational expenses. We propose that we drop the required reserves down and we allow school districts to use the money for operational needs. We think that is an advantage for them. It stays in the school district of

origin. You will not see Clark County money going to Nye County or Lincoln County or any other county in the State. It stays in the school district of origin. We have it set up to where it would be triggered back. If the Economic Forum comes back saying local LSST, a piece of the sales tax, at a certain level comes in greater than projected, it is our intent to replace that money. This is a bridge. We are facing extremely difficult economic times. We believe it is important to mitigate or reduce the cuts as much as possible because we want to keep the teachers in the classrooms. We want to keep the staff within the school districts. It stays in the school district of origin; the money would be triggered back. None of it is bond proceeds. Some of the confusion is that bonds are issued for construction and other projects. None of this money is bond proceeds. It is the revenue stream. If you were to take bond proceeds there would be tax implications to that. This is all money that is from a variety of revenue streams that we would be using. It would be money the school district would be allowed to use for their operational expenses and we would be triggering back.

Assembly Bill No. 183 was proposed in the Assembly doing the same thing, but stating that the money needed to be used for construction projects versus reducing the cuts to education. The Capital Construction Funds have been used before. We have not contemplated using that money. The balances in those accounts are significant. The Bond Reserve Accounts are not in every school district. They are only in school districts who have bonds. Those bonds are general obligation bonds. There are no covenants that require the bond reserve account to exist. That is a statutory requirement. It is not a covenant on the bonds.

There has been discussion about the block grants. We have taken many of the categorical expenditures and put them in the SABG program so that the school districts can decide where they want to spend the money. If full-day Kindergarten is more important than class size reduction, then they can move money around. Originally, we looked at implementation the first year. We listened to the superintendents of schools and we listened to the interested parties and recognized that they would not be prepared to that the first year. We moved it to the second year. With moving to the second year, the funding increased. There is about \$7 million less of a \$350 million to \$360 million pool for all of those categorical expenses we look at line item by line item.

MR. CLINGER:

I would like to discuss the use of bond reserves. Assembly Bill No. 561 was heard yesterday in Assembly Ways and Means. There are a lot of misconceptions about the bond reserves and what we are actually doing. We have gone through each district and done a cash flow analysis based on what their projected debt service payments are, what the projected revenue streams are. There are a few revenue streams to consider. In most school districts, it is only property tax receipts. What we have done to forecast the property tax receipts is that we have used the same forecast that we use for the State's debt service accounts. We have a core group that works on this. It is the Department of Taxation. It is the Treasurer's Office. It is the legislative staff. We get together and put together the property tax forecast that we use for the State's debt service, the 75-cent operating portion of the school districts. That is the same forecast that we are using to forecast the property tax that we believe will go into the bond debt reserves. We think that is a very conservative forecast. We use it for the State's debt services as well. The other sources of revenue that go into the Clark County School District is the room tax as well as the real property transfer tax and the governmental services tax. On those revenue streams, we are using the Economic Forum's growth numbers for 2012-2013 as the baseline. In the out years, we are using a conservative 2 percent growth rate. When you hear the school districts talk about how this is going to require a property tax increase, that is only true if this forecast we have put together, that we think is conservative, does not come to fruition. It is only if the receipts come in something less than what we are projecting. We think what we are projecting is a conservative forecast.

LUCAS FOLETTA (General Counsel, Governor Sandoval):

With the caveat that this institution has its own legal representation, I will give you the Governor's view on why he believes that his proposal relating to the use of the bond reserve accounts satisfies various concerns that have been raised in relation to the proposed use of that money. Three concerns have been raised. One is that the use of the money in the way the

Governor has proposed is inconsistent with the will of the people as expressed through the approval of ballot questions that resulted in the issuance of school bonds in certain counties. Another concern has been that the proposed use of this money somehow is inconsistent with the obligations of the districts as those are reflected in the covenants of the bonds, themselves, and a third concern has been raised as to whether the proposed use of this money would, somehow, negatively implicate the ability of the counties to engage in further bond issues later.

As to the first question whether or not the Governor's proposal respects the will of the people, the operative language is the bond question itself. I will read into the record the language from the ballot question in 1998 in Clark County, which authorized the issuance of school bonds. "Do you approve the issuance of general obligation school bonds so that the Clark County School District can finance new school construction and the expansion and improvement of existing schools." The question goes on to say, "District projects at the time the bonds are issued must indicate that issuance of the bonds will not result in an increase of the existing school bond property tax rate of \$0.55 per \$100 of assessed value." It then states, "If approved this authorization will expire June 30, 2008."

A voter reviewing this question is confronted with essentially one question, whether they approve of the issuance of school bonds for a particular purpose. That purpose is the maintenance and construction of schools. The question relates to the use of the proceeds of the bonds themselves, which is the money that an investor in the district's debt gives the district. The question does not limit in any way the use of the revenue stream that repays those bonds which is, essentially, property tax. The question suggests, obviously, that at the time the bonds are issued the projections that the district has must indicate that it is unlikely that a property tax increase will arise over the course of the authorization to issue the bonds, but it does not limit the use of those funds. In this case, the Governor has proposed the use not of bond proceeds but of funds that are used to not even repay the bonds, but that sit in the bond reserve account. As Ms. Gansert described, there are three accounts. There is the Capital Projects Account which the bond proceeds go into. There is a Debt Service Account and within the Debt Service Account, there is a Reserve Account. Those two accounts, the Debt Service Account and the Reserve Account, are filled by property tax money. The Governor has proposed reducing the threshold for the Reserve Account and freeing up that money which is essentially tax revenue for use in operations.

SENATOR HORSFORD:

In the question, it said by law, the funds cannot be used to pay administrators, teachers, or other non-construction related costs. How do you reconcile that part of the question with the part that you read, which was only the first part?

MR. FOLETTA:

My view would be that the funds that it refers to are the proceeds of the bond issue itself, and not the tax revenue that is already coming in to pay the preexisting tax revenues already coming in to repay the bonds over time.

SENATOR HORSFORD:

We will have that discussion. If you make your argument, again, this is not a court, this may end up in court, if the districts or the parents in those districts choose to, but this is not a court. I am not looking for every legal argument. I am trying to understand the Governor's justification for the approach taken. Other people are going to have to review Assembly Bill No. 353, the bonds and this term that says, "The funds cannot be used to pay administrators, teachers or non-construction related costs." It is your contention that the funds provided for in this question are the bond funds not the funds from the revenue that are used to pay the bond back.

MR. FOLETTA:

That is right. The reason I make the argument, Mr. Chair, is that the basis for the Governor's position that the proposed use of this money is consistent with the will of the people. The will of the people as it relates to this question was that the bond proceeds themselves be used for a particular purpose. They did not render a judgment as to the use, generally, of the tax revenue.

SENATOR HORSFORD:

I worked on this bond question in 1998 as a volunteer. I can tell you what my intent and my understanding as a voter was who worked as a volunteer on this initiative. To somehow imply that the voters said the bond monies could not be used, but the revenues for the payment of the bonds can be used, I have a hard time understanding that logic.

MR. FOLETTA:

I will address the other two remaining points; first, the proposed use of the money is inconsistent with the terms of the covenants. It is my understanding with talking with Mr. Clinger that the bond covenants, themselves, do not restrict the use of the tax revenue that the Governor has proposed using for operational expenses. Finally, as it relates to the potential negative implication to the counties' tax ratings, insofar as to their ability to repay these bonds, is concerned. I would like to point out there are provisions in the State's laws that allow counties to apply to the treasurer for the use of permanent school fund dollars to guarantee outstanding debt obligations. There appears to be some mechanism within the law, now, to address at least some of the concerns that have been raised in that regard.

SENATOR HORSFORD:

Can I clarify to you, Mr. Clinger, or Ms. Gansert, is it the Governor's proposal that you will require the use of the RPTT room tax and GST proceeds to be able to implement the excess debt service proposal, at least as it applies to Clark County, which is unique in that they were the ones who had this voter approved bond initiative?

MR. CLINGER:

We do not transfer those funds specifically. I would say, we are projecting what those funds would be in order to determine the amount that is available to, in this case, Clark County, to determine the amount that is available to transfer to operating funds. We are not taking the room tax revenues or the real property transfer tax revenues directly, but that is part of what helps cover the debt reserves.

MS. GANSERT:

Something I learned I did not know when we started looking at the debt reserves, is that the property tax rate continues whether bonds are issued in taking all of that rate or not and that other municipalities have a rate of a half a cent. If that half cent is not used for school bonds, it can be used for other purposes. The revenue stream is a consistent stream that goes along and it can be used to pay off bonds, but it can be paid for other things or even pay-as-you-go projects.

Over the years, there has been a significant accumulation in the Bond Reserve Account and in the Capital Construction Fund. We did not speak to the Capital Construction Fund, but I believe the ending fund balance in FY 2010, after spending about \$540 million, is still over \$400 million for Clark County. I think there was testimony today in the debt reserve account for Clark County that there was \$475 million in there. We were contemplating allowing them to use about \$220 million of the \$475 million recognizing there is still another account and that that property tax stream and the other streams can be used for pay-as-you-go or to pay off bonds and so forth.

I would like to discuss the final page in the handout entitled *The Senate Committee of the Whole Work Session on Governor's Budget Proposal for K-12 Education*. That page is entitled, *Major Reduction Recommendations for K-12 Education Governor Recommends – Amended 2011-13 Biennium*. When we were in the Assembly last night, it was suggested that this list included cuts and that everything on here was a cut to the budget for education. Your document contains the list that talks about the merit increase suspension. There has been confusion about that, too. When you look at instructional personnel, they are paid for time in service as far as years and also for education. Originally, all instructional personnel were supposed to be frozen last session. What was added back, or restored, was the amount of money that was for advanced degrees. The line item merit increase suspension, just freezes everyone where they are now. If you were an instructional personnel and you were making \$60,000 a year on June 30, you would be making \$60,000 on July 1. If there was someone who finished a master's degree in December of the following year, they would be at that \$60,000 level. It is not a pay decrease, it

is freezing them like we have frozen all other State workers. That is an increase that would not be received versus a cut.

At the bottom *Major Reduction Recommendations for K-12 Education Governor Recommends – Amended 2011-13 Biennium*, speaks to I.P. 1 of the 75th Legislative Session and the continued redirection of the room tax money to General Fund. That is a continuation of what is happening during this current biennium. We do not view that as a cut. We view that as continued redirection. Whenever you redirect something or if you have more money in General Fund it reduces the cuts throughout the budget.

SENATOR HORSFORD:

What was the continuation?

MS. GANSERT:

On the I.P. 1 of the 75th Legislative Session money is going to the General Fund.

SENATOR HORSFORD:

That was provided for specifically in the language that the first two years the money would go to the General Fund. After that point, it would go to the State Supplemental School Account for the purpose of improving student achievement or incentives for teachers. You are arguing that it is a continuation. The first two years the voters and the proponents of the measure said that it should go to the General Fund; thereafter it should go to the State Supplemental School Account. How do you reconcile the language of I.P. 1 of the 75th Legislative Session that says after the first two years that the funding is supposed to go to education?

MS. GANSERT:

I.P.1 of the 75th Legislative Session was a statute. It was an Initiative Petition that went straight to the Legislature. It was done by statute. You can change the statute. There were a couple of advisory questions on the ballot that were around this question, but this question was never put to the voters. It was an Initiative Petition that went straight to the Legislature. We believe that the fiscal concerns that existed two years ago still exist. It looks as if we are starting into a recovery. We want to make certain we are doing everything we can to make certain that continues. We have proposed that that money will be directed to the General Fund as it is right now.

The last piece is the excess debt reserves. It is listed on here as if it is a cut. This is an effort for us to help mitigate the cuts to education. This administration wants to make certain every dollar possible is kept in the classroom. We are freeing this up to allow the school districts of origin to use the money, triggering it to go back. It is more a bridge than anything in an effort to mitigate cuts and to get as many dollars into the classroom as possible.

SENATOR HORSFORD:

Mr. Clinger, you started the discussion saying the Governor's budget is fair and balanced. I am glad to hear those things are starting to take hold. Out of the \$2.5 billion shortfall from the Economic Forum projections to the current levels of spending as requested by the agencies, the Governor's budget reduces spending of \$1.4 billion. Is that correct?

MR. CLINGER:

That is correct. It is \$1.4 billion or 7.95 percent.

SENATOR HORSFORD:

It proposes to shift, redirect or apply revenue from other sources including school district capital reserves toward the \$1.1 billion worth of revenue enhancements.

MR. CLINGER:

That is correct.

SENATOR HORSFORD:

The point is, late last year the Governor said he was going to present a budget based on the revenues provided for by the Economic Forum. At that level, it would have been \$5.3 billion.

Why did he not submit a budget with the funding at \$5.3 billion based on his pledge to submit a budget based on Economic Forum revenues?

MR. CLINGER:

It goes back to what Ms. Gansert discussed. When the new administration came in, we went through all of the agency budget requests and all of the requests they would need to implement in order to reach the targets we had initially set. After going through that process and evaluating all of the potential cuts, the administration realized that there were things we could not cut. We had to put other provisions into the budget to mitigate those.

SENATOR HORSFORD:

I appreciate the honest answer. I know that it is true. I know that the Governor would prefer to be in a different situation to where these cuts, as proposed, even with these revenue enhancements would not have to occur. But, I am still grappling with this question if he recognized that the cuts were too deep in that he as a Governor wanted to preserve those most vital parts, why is the approach with the \$1.1 billion short-term takings from other areas, particularly school districts, rather than just offering a long-term solution that addresses the problem?

MS. GANSERT:

I believe that this administration recognizes the difficult situation Nevada is in right now. We also recognize that we have needs and demands. Education is a priority for the Governor. That is why we looked at innovative ways of making certain there was more money available for schools and for different programs. The philosophy is that it is important to allow this economy to recover. He did not increase taxes. He did not look at streams outside of what was within the realm of what was available because he believes that we need to allow this economy to recover. That is what this budget does. We tried to create something that was reasonable, something that was balanced, something that made a strong effort to mitigate cuts and we were careful in how we put the budget together so there was money for health and human services, so that we could mitigate the cuts to education. It was about the economy starting to grow. During the State of the State, the only place where money was added was for economic development. He has been pleased to be able to work with you and with the Majority Leader and the Minority Leaders on a new economic development program, a new board, a new vision, a new way of approaching it.

SENATOR HORSFORD:

I respect that. I respect the Governor's constraints of trying to offer a budget proposal that did not offer new revenues. However, to the point of trying to live within our means, the \$1.1 billion in revenue enhancements creates a budget hole for the 2013 Legislature at the very beginning. Is the trigger for the LSST in a bill? I have not seen that. That has to be repaid. If we are going to dedicate future increases in LSST that means that is money that would otherwise be used to help offset local support, thereby reducing the State's burden. If you are going to pay that back to the districts by sweeping these dollars, then you are creating a different hole in the LSST support. We have the prepayment of the net proceeds of minerals. That is another hole a future Legislature is going to have to address. I do not know how fiscal conservatives can really defend some of these actions. In being fiscally prudent, those three examples I just pointed out, create holes, they do not solve problems for this Legislature or the next one. How do you respond?

MR. CLINGER:

To address the point on the LSST and where that will end up, we sent some language to your legal counsel. We anticipate that will end up in the DSA whenever that comes out. It is not in the current bill, but the plan is to put that into the DSA bill. The Economic Forum does a forecast on the State's 2 percent sales tax collections. We use that forecast for the basis of developing a forecast for the LSST. That LSST projection will go into the calculations for basic support. What we are talking about on the payback is not using that base-line LSST. We are stating if revenues come in higher than what is projected in the DSA that those excess revenues be used to replenish the debt service reserve account.

SENATOR HORSFORD:

If they do not come in higher than projected beyond what would already go to the local portion of the DSA?

MR. CLINGER:

If the revenue does not come in higher than forecast, then it would not replenish. We are proposing in the language to be included in the DSA is that that language stay in there until those funds are replenished. If it is not in the next two years, it could take four years. It depends on how the revenue comes in compared to the forecast.

SENATOR HORSFORD:

So we could see the LSST paid back if we were to sweep these accounts from the districts being out two, four, six years kicking the can beyond the current biennium to potentially two future biennia of the budget process to repay the districts. Is that what you are saying?

MS. GANSERT:

It is a trigger. It would be money that would have ordinarily reverted. It may take some time to do that, but there is an effort to actually replenish that.

There is a bill, Assembly Bill No. 183, that has no trigger on it. We recognize the money is important to the school districts. It is an effort to help them bridge and to keep more dollars in the classroom. As far as some of the other items in the \$1.1 billion, much of it is continuation of what has been going on for the last two years, of what this Legislature has approved as far as the 9-cent property tax. We have it being redirected toward the university system. Right now, it goes to General Fund. The room tax is currently being used in the General Fund, I.P.1 of the 75th Legislative Session. We are looking at changing that statute to continue that. As far as the prepayment of the mining, that is a continuation of the prepayments. Much of this is continuation of what the Legislature decided to do over the last few years and during some of the Special Sessions.

SENATOR HORSFORD:

The problem with that is that the Governor is relying on past actions, not all of those actions were taken by us. We did not do the insurance premium tax securitization, which is \$190 million of that portion. The repayment of that takes it over \$200 million. Any Governor's job is to prepare a balanced budget. You are saying the Governor's budget is the temporary short-term Special Session actions that Legislatures took under limitations that were placed on us by a Governor that refused to include in the call things that would have allowed us to consider other options. The Governor's plan to balance the budget is based actions taken by the Twenty-sixth Special Session, which were under considerable limitations? That is his plan for the State of Nevada for the next two years?

MS. GANSERT:

No, it is not. Most of those actions were taken during the 2009 Session when we were just starting this economic downturn. There are some small pieces from the Twenty-sixth Special Session. If you would like me to talk about the Insurance Premium Tax, I can do that. The Legislature chose the Local Government Investment Pool (LGIP). They never used it. The Insurance Premium Tax is something we may never use, either. It covers an amount just a little above what is required as far as the ending fund balance. It is something that was an effort to mitigate cuts, but it is small on a relative basis in comparison to this budget. These are things that are a continuation of the decisions made by the 2009 75th Legislature.

SENATOR HALSETH:

Thank you, Mr. Chair. Is it accurate to say that the 2003 72nd Legislature raised taxes by a billion dollars and also in 2009 raised taxes by billion and our schools are continuing to decline as measures by graduation rates?

MR. CLINGER:

That is a correct statement.

SENATOR HORSFORD:

I do know that it is accurate related to our graduation rates. We can get that statistic. They are not good, but I do not know that they have gotten worse. They are not going to get any better under this budget.

SENATOR SETTELMAYER:

Thank you, Mr. Chair. I appreciate the concept of not kicking the can down the road and I eagerly await a hearing on my first PEB bill in Senate Finance so we can quit kicking many cans down the road.

I have a question about the bonds. I am curious on the concept, in my community, that things have changed over time. Things used to be constantly growing and we were constantly building new schools. Lately, it has all been going to rehab existing structures. We closed a middle school at Lake Tahoe this past year. When my father was on the school board, we never thought we would ever have that problem in Douglas County. Are any of the other districts building new schools at this time, or issuing new bonds to do that or not?

MR. CLINGER:

There is very little new construction going on. A few years ago, in Clark County in particular, the saying was that they built a new school every month. The growth in enrollment due to the recession in Nevada has slowed. There is very little growth. There is very little new construction going on. You would have to ask the districts specifically as to what new facilities they are building.

SENATOR CEGAVSKE:

Thank you, Mr. Chair. I wanted to emphasize again, you have addressed this issue, the Chair has reviewed the debt service. I want to make certain everyone understands that the Governor did have a plan to pay it back. I am still concerned people believe that the Governor is eliminating class size reduction, that the Governor is eliminating full-day kindergarten and other programs. I would like you to address this issue.

I give the Governor and his staff a lot of credit. This is a difficult time for all of us. You did the best job you could with the money we have under the circumstances. I think that the statements the Governor and his staff have made to us, Mr. Chair, is that they are willing at any time to take any recommendations or suggestions. I have gone to them with concerns within our caucus. They have addressed them. There has been some funding, \$42 million, brought back. Some of the areas we were concerned about, the camps, and autism, have had money put back in. We still have an opportunity in May when the Economic Forum comes, that we may be looking at more funding.

I want to thank you and I know the grilling has not been easy for you. We appreciate all of the efforts that you have put towards this. We look forward to working with you. I know the Chair has said the same, but I want to tell this body that the Governor has said on many occasions that if we have recommendations or suggestions on any budget to present them to him. To my knowledge, nothing has been presented to you as a suggestion or a recommendation. Is that correct?

MR. CLINGER:

To touch on the block grant and class-size reductions, they go together; originally in the Governor's Executive Budget we had recommended a block grant in both years, FY 2012 and in FY 2013. That block grant would take categorical funding like class-size reduction, like full-day kindergarten and put it into a block grant to give control to the school districts on where they spent the funds. After meeting with the school districts and hearing their concerns, we have modified that request and put the block grant only in the second year to give them a year to adapt to the new model. To say that we are eliminating class-size reduction is not true. The school districts can still implement class-size reduction out of the block grant. But it is their choice. If they would rather spend more money on full-day kindergarten, that is allowed under the block grant. Right now, those are categorical items that they cannot move that money between. We are offering them flexibility.

To the point about the add-backs, as we have had changes in revenue, changes in caseload, we have put those into areas of priority. The \$41 million went back into Health and Human Services. We have taken what would have been identified through this process as the most critical items and have added money back in those areas. The Economic Forum will meet again on May 2 and provide a new forecast for this body to use when preparing the budget. The Governor has stated that his priority is to put any additional revenue from the Economic Forum into education. We look forward to working with this body and the other house on those priorities and those add-backs.

SENATOR HORSFORD:

Thank you for being here today. We look forward to working with you and with the Governor to reach some consensus and agreement on responsible ways to balance the State Budget. We appreciate you answering the body's questions.

DR. DOTTIE MERRILL (Nevada Association of School Boards):

My role this afternoon is to pull together some of the pieces you have heard earlier today about one of the Governor's proposals in the State of the State address and now embodied in Assembly Bill No. 561 and to share information with you about sweeping what is called the Debt Reserve Service Fund maintained by school districts having roll over bonds. Thank you for this opportunity, Mr. Chair.

Marty Johnson of JNA Consulting, who serves as the bond advisor for 12 of the school districts excluding Clark, is testifying from Las Vegas. We are a duet on this presentation. With your permission, Mr. Chair, I have some comments then Mr. Johnson has additional information.

You have heard the term "rollover bonds" over and over today. I would like to begin by clarifying what they are.

First, school districts go to the voters in their counties with a plan for improving the educational environment, which may entail school construction, revitalization, and modernization.

The language is specific. This is the language from the Douglas County School District bond question in 2008.

"Shall Douglas County School District be authorized to issue general obligation school bonds to finance the acquisition, construction, improvement, and equipping of school facilities? District projections at the time the bonds are issued must indicate that issuance of the bonds will not result in an increase of the existing school bond property tax rate of 10 cents per \$100 of assessed value. That portion of the taxes generated by this tax rate that is not needed for payment of the bonds and purposes related to bonds including the required reserves for bonds in any year may be used for capital projects for the District. If approved, this authorization will expire November 4, 2018."

If the question is approved by the voters, the taxpayers continue paying property taxes based on the same school district debt rate that existed prior to the election. Approval of the question allows the district to issue bonds, and in some cases transfer money for pay-as-you-go, for up to a ten year period. Issuance of bonds is conditioned upon the ability to repay the bonds within the existing tax rate.

Second, what is the Debt Service Reserve Fund? When the rollover bond concept was passed, there were concerns that the taxpayers' interest' needed to be protected and that a mechanism should be implemented to ensure that school districts would not require a tax rate increase to repay these bonds.

As a result, the Legislature included in Assembly Bill No. 353 of the 69th Legislative Session the requirement that each district issuing rollover bonds must retain in reserve an amount equal to the principal and interest payment for the following fiscal year. This reserve generally comes from local property taxes and is held in the Debt Service Reserve Fund to ensure that the district can pay its principal and interest payments as required. Some districts have also used and plan to use bond proceeds to meet the reserve requirement. Debt service funds are created to account for the cash flows related to these bonds, which are repaid solely from property taxes. In other words, revenues from the property tax rate levied to support these voter-approved bonds are deposited into the Debt Service Reserve Fund and the payments on the bonds are made from the

Debt Service Reserve Fund. Certain districts have voter approval to transfer monies from the Debt Service Reserve Fund in excess of those required to pay debt service and maintain the reserve for capital projects.

Among Nevada school districts, four have voter approval to only issue bonds under the rollover statute. They are Lyon, Nye, Storey and Washoe.

Six other districts have voter approval to issue bonds and transfer for pay-as-you-go under the rollover statute. They are Carson City, Churchill, Douglas, Humboldt, Pershing and White Pine. Clark County is in a unique position and their representatives have already talked about that.

Third, what is the proposal to sweep? Although this Debt Service Reserve Fund sweep has had several different iterations, the current proposal is contained in Assembly Bill No. 561. It is to sweep all funds from Clark County and Washoe County debt reserve accounts except for 10 percent, thereby taking 90 percent of all funds available on July 1, 2011.

For the remaining counties having rollover bonds, the Governor's proposal would take 75 percent of the funds available on July 1, leaving only 25 percent for the purpose of repaying the principal and interest. Again, it should be emphasized that this proposal takes money that has been approved by the taxpayers and accumulated for the improvement of school facilities in their district. An example would be, upgrading technology connections so that classrooms can continue to use computers in instruction and enrichment activities or replacing a worn-out HVAC system so the classroom temperature can be maintained at a comfortable level that will enable children to learn and achieve.

In the State of the State address, the Governor proposed to sweep 50 percent of the Debt Service Reserve funds across Nevada's school districts and stated that these debt service reserve fund sweeps would total \$425 million. That has proved, however, to be a higher number than is available from this single source at that percentage. Earlier in the Session, another proposal was presented by the Executive Budget Office which involved taking all debt service reserve funds down to an 8 percent balance and, in addition, taking the Government Services Tax funds from Clark and Washoe school districts. According to this revised proposal, it appeared that approximately \$301 million would be collected.

The proposal in Assembly Bill No. 561 has now shifted from maintaining a 50 percent requirement to a 10 percent requirement for Washoe and Clark and 25 percent for remaining counties having rollover bonds. With information that is still uncertain about property tax projections, it is not clear what this sweep of Debt Service Reserve funds would yield.

You might ask, "What is the big deal here?" Many of Nevada school districts have facilities that are 100 years old. In White Pine, there is a school still in use that is 108 years old. Even facilities that are not as old need refurbishments including updated heating and air conditioning systems, repairs to their cement walls and other types of maintenance. If school facilities are not maintained and repaired appropriately, when the Government Services Tax is also swept, there are simply not enough funds available for making even emergency repairs. Please note that we are not talking about what some people might call frills. We are talking about the basics like boilers, emergency repairs to roofs, air conditioning, etc.

What are the consequences of this proposal as we look across Nevada school districts?

First, school districts will have to defer their planned revitalization projects but they cannot defer their debt payments. Some districts may discover that the remaining funds are not enough to pay the principal and interest owed.

Second, such a small remaining balance at either 10 percent or 25 percent leaves a slim margin for error in factors that cannot be controlled by school districts. What if property tax collection rates are less than anticipated? What if there is a further decline in assessed value? What if there are fluctuations in net proceeds?

Third, when school districts defer needed repairs, what may happen is that there are catastrophic system failures that result in higher emergency costs in the future.

How will these funds be repaid? There is no repayment mechanism in Assembly Bill No. 561 although you have heard earlier today about such a proposal. School board members are concerned about the economic conditions that will be required to repay this money in anything short of ten years.

One of the consequences is that voter trust will be impaired which will make it difficult if not impossible to pass school bond questions in the future. During bond campaigns, voters always

ask whether the funds will be used for paying salaries and operations. Up to now, school districts have been able to honestly respond, "No." Now school districts will have to say that the funds are intended for school facilities; however, there is no guarantee that this will be the case.

Most importantly, school facility improvements, extending technology access, improving the physical plant by replacing roofs or boilers, making it possible for children with hearing problems to hear their teachers, and other improvements, all of these will be postponed which means that children will lack the environment they need to learn and achieve.

On behalf of Nevada school boards, we respectfully submit that this is not a good idea and would be a very unfortunate shift in public policy. To use an analogy, this is like buying groceries today with money needed next month to pay your mortgage. This is a one-time fix for the State's budget; however, school districts, schools and the local communities they serve will feel the negative impact of losing these funds long into the future.

To conclude, sweeping these funds will create a hole that will need to be filled in the next budget cycle and will eliminate the ability to utilize these funds to improve school facilities as they were originally intended to do. In the meantime, thousands of boys and girls across Nevada will suffer with the conditions that make instruction more challenging for their teachers and that will make learning less likely for them.

Thank you for your thoughtful consideration of these factors in the big picture of this issue. Thank you also for your service during these difficult economic times.

MARTY JOHNSON (JNA Consulting, Bond Consultant for 12 Nevada School Districts):

There are a number of school districts that have pay-as-you-go options available within their rollover question. One is from the Douglas County School District. That is a provision that was put into law in 2007 during that session. The school districts that have been to the ballot since that time have all included that pay-as-you-go component where the property tax revenues that come in over and above debt service and was needed to maintain that reserve can be used for capital projects on a pay-as-you-go basis. Additionally the reserve fund is funded from property tax revenues that the voters pay as a result of approving a rollover bond question. Occasionally, a school district has bond proceeds used to help meet that reserve requirement. This has happened in Washoe County and Carson City. Bond proceeds are put in there. In February, the Carson City School District issued bonds. We put \$1.5 million of the bond proceeds into that reserve account. Provisions will need to be made to make certain those funds are not swept, because that does create a host of federal tax problems.

There was a question raised earlier about the use of the reserve and whether that has happened yet. I cannot speak for Clark County because I do not work with them, but in the other districts, the only one I am aware of where we have hit the reserve to a small extent, is the Storey County School District. That situation is going to be changing over the next few years. As part of issuing the rollover bonds, the school district has to demonstrate that they will be able to repay the bonds from what the projected property tax revenues will be.

In the past few years, we have seen declines in assessed values unforeseen by anyone. We are going to see school districts that will need to draw on the reserve account in terms of being able to repay their bond, as the Clark County School District testified to earlier today. Nye County School District has annual debt service that ranges from about \$7.5 million to \$8.1 million over the next five to six years. If Assembly Bill No. 561 were to pass, on July 1, 2011, the debt service fund balance for Nye County School District would be taken down to just over \$2 million. With the 30 percent drop in assessed value that has been projected for Nye County for 2012 and assuming the advanced payment of net proceeds is continued, property tax revenues are expected to be just under \$7 million. It would not take too long before that annual shortfall wiped out that debt service fund balance and Nye County School District would be required to increase their property tax rate in order to repay those bonds.

As Dr. Roberts mentioned earlier today, that creates additional concerns on our part because in NRS 361.457 there is the provision that if it is determined by the Department of Taxation that a school bond has caused the tax rate to go over \$3.64 the school may be forced to compensate the local governments that have to lower their rate in order for all of the rates to fit within the \$3.64 limit. Currently, Tonopah and Amargosa are at that \$3.64 limit. It is possible that at a time

when the school district needs to raise their rate they will have to compensate other local governments for lowering their rate and do so out of their general fund.

SENATOR HORSFORD:

Can you explain to us the process you just outlined? If the bond rating required the increase and the county was already at the cap, then the district would have to reimburse the county in some way?

MR. JOHNSON:

Yes. For instance, in round numbers, Nye County School District levels a tax rate of 58.5 cents to repay their bonds. The tax rate in Tonopah is at the \$3.64 limit. Because of where assessed value goes, Nye County School District has to raise their rate by 10 cents. There is not 10 cents of room in Tonopah. Some local government that overlaps the town of Tonopah will have to lower their rate by 10 cents. If the provisions of NRS 361.457 are met, and that \$0.10 raises \$25,000 in Tonopah, it is possible that the school district, out of their general fund, would have to pay that local government the \$25,000 to make up for them lowering their tax rate. That would continue until the point in time that the tax rate was no longer a problem in terms of that \$3.64 limit.

SENATOR HORSFORD:

How many counties are at the \$3.64 rate?

MR. JOHNSON:

The majority of counties where there are rollover bonds have jurisdictions that are within \$0.10 or \$0.15 of the \$3.64 limit if not at the \$3.64 limit.

I would like to make three more points.

Looking at this proposal on projections, Assembly Bill No. 561, as written, takes the money out July 1, 2011. If we look at projecting property tax revenues, if the projection is that property tax revenues will increase by 5 percent or 7 percent, what happens when property tax revenues because of declines and assessed value come in 5 percent, 6 percent or 10 percent lower than the year before? These things need to be taken into account.

The payback we heard about this morning will be included in another bill. I believe the goal is to sweep somewhere between \$50 million and \$53 million from the Washoe County School District. LSST, according to the Department of Taxation is projected to generate \$110 million in 2012. You can see how long it might take for that \$50 million to get repaid to the Washoe County School District.

I would like to address the impact on the bond ratings. For all of the reasons we have been mentioning, this could have an adverse impact on the bond ratings, increasing the amount of interest that school districts will need to pay on bonds going forward. There was a comment made earlier about the Permanent School Fund Guarantee Program (PSF). It is a fantastic program. It gives the school districts the AAA rating on the bonds. Some of the districts are at the \$40 million limit as it applies to the PSF guarantee. They cannot guarantee any more bonds until outstanding bonds are paid off. Bond buyers are looking through the guarantee to the bond rating of the specific district. A district with an A+ rating with the PSF guarantee on it is going to get a much better interest rate than a district with a BBB bond rating with a PSF on it. While the PSF helps and it is wonderful to have that guarantee program, it in of itself does not totally protect the districts against increased interest cost from a decline in their bond rating.

Thank you for the opportunity to make these comments.

SENATOR HORSFORD:

How long have you been bond counsel for the districts?

MR. JOHNSON:

Actually, financial advisor. Bond counsel is a term we use for the lawyers. I have been working with school districts for 21 years and have been involved with every rollover bond election that has happened in this State.

SENATOR HORSFORD:

How many school districts have you been financial advisor to?

MR. JOHNSON:

During those 21 years, I have worked with every school district except Lander.

SENATOR HORSFORD:

Based on your 21 years of experience, would you view this as a fiscally prudent proposal?

MR. JOHNSON:

I understand the dilemma of putting the money in because money is needed in a variety of ways, but my biggest concern is that voters voted to pay property taxes based on this money being used to improve facilities. If we transfer this money and use it for operations, we create a hole for a future budget and we use the money that would otherwise be able to be used to improve the facilities. It seems like the school districts are going to lose on both counts.

DR. KEITH W. RHEAULT, Ph.D. (Superintendent of Public Instruction, Department of Education, State of Nevada):

Last night, Speaker Ocegüera started his session with the Assembly Committee of the Whole with the question, "What kind of schools and education do we want to have for our children in Nevada?" My response to his question is short and to the point.

If we are satisfied with overcrowded schools, schools that provide limited access to textbooks, schools that reduce the instruction at the elementary level in art, P.E., music, computers; and at the secondary level that have eliminated electives and reduced the career tech programs that keep students in school, with schools that are poorly maintained, schools without counselors or libraries, then we are headed on the right path.

I am not making this up as a scare tactic. In the survey entitled *Planned Program Cuts*, which you received from the school districts presented by Dr. Roberts, every one of the 17 school districts and charter schools are discussing these issues right now. The districts have been in the business of reducing their budgets since 2008. They have reduced a lot from their budgets and have cut many programs during that time. The cuts have caused us to scrutinize other issues. Four districts are contemplating either closing or consolidating schools. There are three districts that are looking at reducing their five-day school weeks to four. Two districts are considering reducing transportation for students. All of these are topics that are being discussed as a part of the proposed Governor's recommended budget as it is today.

It can be and has been argued that funding provided by the State does not, in itself, equate to student achievement. In all cases, it could be argued that it does not. But, what you can argue, if you look at the cuts and the planned cuts that are being proposed by the school districts, you cannot say that it does not affect the quality of education in our schools. Students who do not have access to P.E. because the P.E. teacher was laid off, or if the computer teacher is laid off and there is no one to teach the computer classes, all of that affects the quality of life no differently than if the citizens of a city close up their parks and libraries. That, too, affects the quality of life for individuals.

The budgets being discussed today are budgets that the Department of Education receives and 100 percent of the funding is passed down to the school districts. The Department is reliant on the elected school board members of each of the 17 districts and the school administration to make certain they use every dollar to the best of their ability by getting it to the classroom level to improve student achievement. They are doing the best they can with what they are going to receive.

Last night in the Assembly Committee of the Whole there were discussions about whether these were cuts, budget reductions, or transfer of funds. For example, is the money that is not being put in for teachers who earn a master's degree a cut or just a non-budget item? When you cut your finger, it hurts. When you look at all of the cuts being proposed, that hurts.

SENATOR GUSTAVSON:

Thank you, Mr. Chair. Every one of us knows what the problems are and how bad things are going for the school districts in Nevada. I am certain we are not the only state having these

problems. Do you know of any other districts in the country that are having similar problems, and if so, do they have any innovative ideas as to how they are solving their problems?

DR. RHEAULT:

I meet with other superintendents from across the country. There are some in as bad a shape as Nevada is regarding their K-12 budgets. Utah, New Mexico and Arizona are all running into severe budget problems. Arizona is short billions. They increased their sales tax last session. Others are cutting similar to Nevada by reducing funding going to schools, class sizes are going up and limiting everything, as we are talking about in Nevada. Other states are doing everything from cutting to finding new revenue.

SENATOR CEGAUSKE:

Thank you, Mr. Chair. I have many comments I would like to make, but I will not because we have probably debated them in every Education Committee hearing I have talked in, but I am offended by some of the comments you have made in your opening statement.

To Dr. Rheault, I would like to ask what are the decisions you have made to improve education in the State of Nevada during the years you have been here? What are you specifically going to be doing and what has been the discussion with your Board of how you are going to improve education?

I know that is a broad statement, I know you are working with some groups, but over the years, all I have seen is the same from your Board and from professional standards. I have seen the same ideas coming out and I have seen the same people dictating to the Department of Education and to the Board as to what they want or do not want. I want to find out today. You did not mention anything about what are you looking for. Where are you going to help improve the education for the children, help improve the education the teachers receive in higher education to become excellent teachers? The growth of the students, everything we have talked about today, all of education rests on the Department of Education. I have not seen you step up to the plate for all of it. It is not just you, it is your predecessors. But, we have not given our all through the Department of Education, through professional standards, in all of those areas for what the students, what the teachers, and what the parents need in the State of Nevada. What is your plan?

SENATOR HORSFORD:

With all due respect, that is a very broad question. I want to have the discussion, but we have other business we need to complete this afternoon. I would be happy to invite the Superintendent back to answer your question. I would like to explain that the policy for education is set by the Legislature and the Governor. The implementation of that policy is carried out through regulation by the Department of Education. If we are going to have that discussion about whose responsibility it is to improve student learning, then we have to look at ourselves and not point the finger. Superintendent Rheault has a responsibility and he should be held accountable. I want to give him that opportunity. But, I also want us to talk about what our jobs are as Legislators as well as part of that discussion.

SENATOR CEGAUSKE:

So you are not going to let him answer my question?

SENATOR HORSFORD:

Not at this time, because we need to move on and get back to the body, but I will invite Superintendent Rheault back on Friday for him to answer your question and for us to have a more extensive dialogue about all of our responsibilities as elected and appointed officials on how we improve student learning together.

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

Motion carried unanimously.

SENATE IN SESSION

At 4:23 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bills Nos. 10, 15, 24, 26, 38, 40, 57, 81, 106, 110, 112, 127, 130, 142, 144, 152, 154, 159, 180, 182, 187, 194, 196, 198, 209, 213, 238, 248, 251, 256, 259, 262, 268, 273, 277, 281, 284, 288, 294, 304, 309, 315, 331, 361, 368, 375, 376, 392, 393, 402, 403, 406, 411, 417, 432, 488, 495; Senate Joint Resolution No. 8; Assembly Bills Nos. 30, 144, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Commerce, Labor and Energy:

Senate Bill No. 496—AN ACT relating to renewable energy; revising provisions governing the Solar Energy Systems Incentive Program; requiring the reallocation of certain capacity in the Solar Program under certain circumstances; revising provisions relating to net metering systems; revising the definition of "biodiesel"; requiring under certain circumstances that all diesel fuel sold, offered for sale or delivered in this State contain a certain percentage of biodiesel; providing a penalty; and providing other matters properly relating thereto.

Senator Breeden moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 449.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 413.

"SUMMARY—Revises provisions governing tuition charges, registration fees and other fees assessed against students in the Nevada System of Higher Education. (BDR 34-932)"

"AN ACT relating to the Nevada System of Higher Education; authorizing the Board of Regents of the University of Nevada to fix tuition charges and assess registration fees and other fees based on the demand for or the costs of providing the academic program or major for which the tuition charges are fixed or the registration fees are assessed; requiring the Board of Regents to establish a program authorizing scholarships ~~for~~ **and** reduced fees ~~and tuition and forgiveness of student loans~~ for students who are economically disadvantaged under certain circumstances; requiring the Board of Regents to

make certain reports to the Legislature ; ~~under certain circumstances;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to fix tuition charges for students at all campuses of the Nevada System of Higher Education. The tuition charges are in addition to any registration fees or other fees assessed against a student. (NRS 396.540) ~~{This bill}~~ **Section 2 of this bill** authorizes the Board of Regents, in fixing tuition charges and assessing registration fees and other fees, to adjust the amount of the tuition charges and registration and other fees based on the demand for or the costs of carrying out the academic program or major for which the tuition charges or registration or other fees are assessed. The adjustment may be based on factors such as the cost of professional instruction, the cost of laboratory resources and ancillary costs. ~~{This bill}~~ **Section 2 also** provides that if the Board of Regents adjusts the amount of tuition charges, registration fees or other fees based on the demand for or the cost of an academic program or major, the Board is required to establish a program to authorize scholarships ~~{,}~~ **and** reduced fees ~~{and tuition and forgiveness of student loans}~~ for students who are economically disadvantaged and who are enrolled in academic programs or majors which are more costly as a result of the adjustments authorized by this bill.

~~{ This bill}~~ **Finally, section 2** requires the Board of Regents to submit an annual report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the Legislature is not in session, which identifies the demand for and the costs of each academic program and major and includes a schedule of all tuition charges, registration fees and other fees assessed for each academic program and major.

Section 3 of this bill requires the Board of Regents to submit a biennial report to the Legislature including certain information on: (1) the number and percentage of students who complete academic programs at an institution within the System with a degree or certificate and a comparison with national statistics; (2) initiatives undertaken by the Board of Regents to increase the rate of students who complete academic programs with a degree or certificate; (3) based upon surveys of students, the employment rate of students who complete a degree or certificate program and the average starting salary; and (4) initiatives undertaken by the Board of Regents to align the degree and certificate programs offered by institutions within the System with the economic development goals identified by the Commission on Economic Development.

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *In fixing a tuition charge for students at any campus of the System as provided by NRS 396.540 and in setting the amount of registration fees and other fees which are assessed against students, the Board of Regents may provide for the adjustment of the amount of the tuition charge or registration fee or other fee based on the demand for or the costs of carrying out the academic program or major for which the tuition charge, registration fee or other fee is assessed, including, without limitation, the costs of professional instruction, laboratory resources and other ancillary support.*

2. If the Board of Regents provides for the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1, the Board of Regents shall establish a program to authorize scholarships ~~for~~ and reduced fees ~~and tuition and the forgiveness of student loans~~ for students who are economically disadvantaged and who are enrolled in academic programs or majors for which the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1 results in an increase in the costs of enrollment in such programs or majors.

3. If the Board of Regents provides for the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1, the Board of Regents shall, on or before February 1 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the Legislature is not in session, which must, without limitation:

- (a) Identify the demand for each academic program and major;*
- (b) Identify the costs of providing each academic program and major; and*
- (c) Include a schedule of all tuition charges, registration fees and other fees assessed for each academic program and major.*

4. As used in this section, "tuition charge" has the meaning ascribed to it in NRS 396.540.

Sec. 3. The Board of Regents shall, on or before February 1 of each odd-numbered year submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature which includes:

1. By institution within the System and by each academic program at the institution:

- (a) The number of students who enter the academic program;
- (b) The percentage of students who complete the academic program; and
- (c) The average length of time for completion of the academic program to obtain a degree or certificate.

2. A comparison of the data which is reported pursuant to subsection 1 with available national metrics measuring how states throughout the country rank in the completion of academic programs leading to a degree or certificate and the average time for completion of those programs.

3. Initiatives undertaken by the Board of Regents to increase the rate of students who complete degree and certificate programs, including initiatives to shorten the time to complete those programs.

4. Based upon surveys of students who have completed an academic program and obtained a degree or certificate, the number and percentage of students who have obtained employment within their field of study, and the average starting salary, which must be reported by institution within the System and by each academic program at the institution. The data must be matched with industries identified in state economic development goals to determine whether students who graduated and obtained a degree or certificate are finding employment in those industries.

5. Initiatives undertaken by the Board of Regents to align the degree and certificate programs offered by the institutions within the System with the economic development goals identified by the Commission on Economic Development.

~~{Sec. 2.}~~ **Sec. 4.** This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 413 makes two changes to Senate Bill No. 449. First, the amendment deletes the requirement that the Board of Regents of the Nevada System of Higher Education (NSHE) establish a program to forgive tuition and students loans for economically disadvantaged students, if a higher differential fee has been established for an academic program or major, as authorized in the bill as a whole. Other provisions regarding scholarships and reduced fees for such students remain in the measure. Second, the amendment establishes the content of a biennial report to the Legislature concerning NSHE's degree and certificate programs. Among other things, the report must include linkages to the State's economic development goals and the success rate in placing new graduates in targeted industries.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that Senate Bill No. 449 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 451.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 473.

"SUMMARY—Revises provisions governing tuition charges, registration fees and other fees assessed against students enrolled in institutions of the Nevada System of Higher Education. (BDR 34-933)"

"AN ACT relating to the Nevada System of Higher Education; providing that any increase in any tuition charge, registration fee or ~~other~~ miscellaneous student fee assessed against a student by a university, state college or community college within the System must be retained by that institution and used to support academic programs and other services, activities and uses which advance the educational needs of the students enrolled at the institution and the educational goals of the institution or which otherwise benefit such students; requiring the Board of Regents of the University of Nevada to submit an annual report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or the Legislative Commission concerning the use of money collected from tuition charges, registration fees and other fees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to fix a tuition charge for certain students at all campuses of the Nevada System of Higher Education. Tuition charges are in addition to registration fees and other charges assessed against students. (NRS 396.540) This bill provides that any increase in any tuition charge, registration fee or ~~other charge~~ miscellaneous student fee assessed against a student over the amount that would have been assessed on January 1, 2011, must be retained by the university, state college or community college at which the student is enrolled. This bill further provides that money collected from increases in tuition charges, registration fees and ~~other charges~~ miscellaneous student fees must be used to support academic programs and other services, activities and uses which advance the educational needs of the students enrolled at the institution and the educational goals of the institution or which otherwise benefit such students.

This bill requires the Board of Regents to submit an annual report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the Legislature is not in session, which must include for each university, state college and community college information concerning: (1) the allocation of money collected from tuition charges, registration fees and other charges to each academic program; (2) progress in advancing the educational goals of the institution; (3) whether the expenditure of money collected from tuition charges, registration fees and other charges aligns with the economic development goals identified by the Commission on Economic Development or any regional economic development authority or local redevelopment agency for the region of this State in which the institution is located; and (4) the number of students entering each academic program or major and the number of certificates and degrees awarded by each academic program and major.

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Any~~ The amount of any tuition charge, registration fee or ~~other~~ miscellaneous student fee assessed against a resident or non-resident student in excess of the amount that would have been assessed as of January 1, 2011, must be retained by the university, state college or community college at which the student is enrolled. Money ~~collected from tuition charges, registration fees and other fees~~ retained pursuant to this subsection must be used by the university, state college or community college to support academic programs and other services, activities and uses which advance the educational needs of the students enrolled at the institution and the educational goals of the institution or which otherwise benefit such students.

2. The Board of Regents shall, not later than February 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature in odd-numbered years or the Legislative Commission in even-numbered years, a written report concerning the use of money collected from tuition charges, registration fees and other fees by each university, state college or community college within the System. The report must include, without limitation, for each university, state college or community college within the System information concerning:

(a) The allocation of money collected from tuition charges, registration fees and other fees to each academic program offered by the university, state college or community college;

(b) Progress in advancing the educational goals of the institution;

(c) Whether the expenditure by the institution of the money collected from tuition charges, registration fees and other fees aligns with the economic development goals identified by the Commission on Economic Development or any regional economic development authority or local redevelopment agency for the region of this State in which the institution is located; and

(d) The number of students entering each academic program and major offered by the institution, and the number of certificates and degrees awarded by each academic program and major.

3. As used in this section ~~["tuition"]~~ :

(a) "Miscellaneous student fee" means any fee other than a tuition charge or registration fee that, as of January 1, 2011, was not being retained by the university, state college or community college at which the student is enrolled. The term does not include a special course fee, laboratory fee or differential program fee.

(b) "Tuition charge" has the meaning ascribed to it in NRS 396.540.

Sec. 2. This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 473 to Senate Bill No. 451 clarifies that the provisions of the bill relating to the retention of registration fees and tuition charges at the institution where the fee is assessed applies prospectively to tuition and fee increases assessed as of January 1, 2011. Further, the amendment specifies that special course fees, laboratory fees, and differential program fees, are not subject to the provisions of the bill as a whole since those charges are already retained by each institution through current policies of the Board of Regents. Miscellaneous fees that would be included within the provisions of the bill are those charges that are currently not retained by the institution.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that upon return from reprint, Senate Bill No. 451 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 53.

Bill read second time.

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

Amendment No. 201.

"SUMMARY—Excludes ~~locations where~~ certain programs ~~are operated by a local government to~~ that supervise children from certain licensing requirements. (BDR 38-242)"

"AN ACT relating to child care facilities; excluding ~~a location where a program is operated by a local government to supervise children during certain times~~ certain seasonal or temporary recreation programs and out-of-school recreation programs from certain licensing requirements; requiring certain out-of-school recreation programs to obtain a permit; establishing certain requirements for the operation of an out-of-school recreation program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a child care facility to be licensed by an agency created by a city or county for the licensing of child care facilities or by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services. (NRS 432A.131, 432A.141) **Section ~~11~~ 12** of this bill revises the definition of "child care facility" to exclude from the term ~~a location where a program is operated by a local government to provide supervision of children before or after school, during the summer or other seasonal breaks in the school calendar or between sessions~~ certain seasonal or temporary recreation programs and certain out-of-school recreation programs so that such ~~locations~~ programs are not required to be licensed. **Sections ~~12-4~~ 13-15** of this bill revise provisions

that apply the same definition of "child care facility" for other purposes so that the definition does not change in those provisions.

Section 5 of the bill requires a local government to obtain a permit to operate an out-of-school recreation program. To obtain a permit, the local government must complete an application, pay a fee and meet certain requirements. Section 6 of this bill requires a local government that operates an out-of-school recreation program to comply with certain health and safety standards and to comply with other requirements relating to the safety of participants. Section 7 of this bill provides certain requirements for the staff of an out-of-school recreation program. Section 7 also limits the number of participants in a program and establishes certain components that must be included in such a program. Section 8 of this bill requires an out-of-school recreation program to maintain certain records about participants in the program. Section 9 of this bill requires a local government that operates an out-of-school recreation program to provide copies of certain inspections of the facility where the program is conducted according to a schedule established by the Bureau. If the local government submits such records, section 9 prohibits the Bureau from conducting any additional on-site inspections of the facility. Section 10 of this bill authorizes the Bureau to adopt any regulations necessary to provide for the permits to operate an out-of-school recreation program.

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. "Local government" means any political subdivision of this State, including, without limitation, a city, county, town, school district or other district.

Sec. 3. 1. "Out-of-school recreation program" means a recreation program operated or sponsored by a local government in a facility which is owned, operated or leased by the local government and which provides enrichment activities to children of school age:

(a) Before or after school;

(b) During the summer or other seasonal breaks in the school calendar;
or

(c) Between sessions for children who attend a school which operates on a year-round calendar.

2. The term does not include a seasonal or temporary recreation program.

Sec. 4. "Seasonal or temporary recreation program" means a recreation program that is offered to children for a limited time or duration and may include, without limitation:

1. A special sports event, which may include, without limitation, a camp, clinic, demonstration or workshop which focuses on a particular sport;

2. A therapeutic program for children with disabilities, which may include, without limitation, social activities, outings and other inclusion activities;

3. An athletic training program, which may include, without limitation, a baseball or other sports league and exercise instruction; and

4. Other special interest programs, which may include, without limitation, an arts and crafts workshop, a theater camp and dance competition.

Sec. 5. 1. To operate an out-of-school recreation program a local government must obtain a permit. The local government may apply for the issuance or renewal of a permit by submitting an application on a form prescribed by the Bureau. The Bureau shall issue a permit to operate an out-of-school recreation program to the local government upon payment of the fee prescribed in subsection 2 and upon satisfaction that the program complies with the requirements set forth in sections 2 to 10, inclusive, of this act, and any regulations adopted pursuant thereto.

2. The Bureau shall charge a fee for a permit to operate an out-of-school recreation program based upon the number of locations operated by the out-of-school recreation program. If the out-of-school recreation program has:

(a) At least 1 but not more than 5 locations, the Bureau shall charge a fee of \$100.

(b) At least 6 but not more than 20 sites, the Bureau shall charge a fee of \$250.

(c) At least 21 but not more than 40 sites, the Bureau shall charge a fee of \$500.

(d) At least 41 but not more than 60 sites, the Bureau shall charge a fee of \$750.

(e) At least 61 but not more than 80 sites, the Bureau shall charge a fee of \$1000.

(f) At least 81 sites, the Bureau shall charge a fee of \$1250.

3. A permit issued pursuant to this section is nontransferable and is valid:

(a) For 3 years from the date of issuance; and

(b) Only as to a location specifically identified on the permit.

Sec. 6. A local government that operates an out-of-school recreation program shall ensure that each location:

1. Complies with applicable laws and regulations concerning safety standards;

2. Complies with applicable laws and regulations concerning health standards;

3. Has a complete first-aid kit accessible on-site that complies with the requirements of the Occupational Safety and Health Administration of the United States Department of Labor;

4. Has an emergency exit plan posted on-site in a conspicuous place; and

5. Has not less than two staff members on-site and available during the hours of operation who are certified and receive annual training in the use and administration of first aid, including, without limitation, cardiopulmonary resuscitation.

Sec. 7. A local government that operates an out-of-school recreation program shall:

1. Complete, for each member of the staff of the out-of-school recreation program:

(a) A background and personal history check; and

(b) A child abuse and neglect screening through the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against the staff member.

2. Ensure that each member of the staff of the out-of-school recreation program:

(a) Meets the minimum requirements that have been established for the position; and

(b) Receives an orientation and training concerning the abuse and neglect of children.

3. Ensure that the number of participants in the out-of-school recreation program:

(a) Does not exceed a ratio of one person supervising every 20 participants; and

(b) Will not cause the facility where the program is operated to exceed the maximum occupancy as determined by the State Fire Marshal or the local governmental entity that has the authority to determine the maximum occupancy of the facility.

4. Ensure that the out-of-school recreation program includes, without limitation:

(a) An inclusion component for participants who qualify under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;

(b) Structured activities, including, without limitation, arts and crafts, games and sports;

(c) Nonstructured activities, which may include, without limitation, free time for playing;

(d) Regular restroom breaks; and

(e) Nutrition breaks.

Sec. 8. 1. The out-of-school recreation program shall maintain records containing pertinent information regarding each participant in the program. Such information must include, without limitation:

- (a) The full legal name of the child and the preferred name of the child;
- (b) The date of birth of the child;
- (c) The current address where the child resides;
- (d) The name, address and telephone number of each parent or legal guardian of the child and any special instructions for contacting the parent or legal guardian during the hours when the child participates in the program;
- (e) Information concerning the health of the child, including, without limitation, any special needs of the child; and
- (f) Any other information requested by the Bureau.

2. The distribution of any information maintained pursuant to this section is subject to the limitations set forth in NRS 239.0105.

Sec. 9. 1. A local government that operates an out-of-school recreation program shall provide a copy of each report of an inspection conducted by a governmental entity that is authorized to conduct an inspection of the facility where the program is operated, including, without limitation, the report of an inspection by a local building department, a fire department, the State Fire Marshal or a district board of health.

2. The Bureau shall establish a schedule for the submission of such reports which requires submission of a report of an on-site inspection once every 2 years and shall provide a checklist to the local government which identifies the reports that must be submitted to the Bureau.

3. The Bureau shall not require any additional inspections of the facility of an out-of-school recreation program which complies with the provisions of this section.

Sec. 10. The Bureau shall adopt any regulations necessary to carry out the provisions of sections 2 to 9, inclusive, of this act.

Sec. 11. NRS 432A.020 is hereby amended to read as follows:

432A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432A.0205 to 432A.028, inclusive, and sections 2, 3 and 4 of this act have the meanings ascribed to them in those sections.

~~{Section 11}~~ Sec. 12. NRS 432A.024 is hereby amended to read as follows:

432A.024 1. "Child care facility" means:

- (a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;
- (b) An on-site child care facility;
- (c) A child care institution; or
- (d) An outdoor youth program.

2. "Child care facility" does not include:

(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; ~~{or}~~

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity ~~{,}~~; ~~{or}~~

~~(d) A location where a program is operated by a local government to provide supervision of children;~~

~~(1) Before or after school;~~

~~(2) During the summer or other seasonal breaks in the school calendar;~~

~~or~~

~~(3) Between sessions for children who attend a school which operates on a year-round calendar.~~

~~3. As used in this section, "local government" means any political subdivision of this State, including, without limitation, a county, city, town, school district or other district.]~~

(d) A seasonal or temporary recreation program; or

(e) An out-of-school recreation program.

~~{Sec. 2.}~~ **Sec. 13.** NRS 202.2483 is hereby amended to read as follows:

202.2483 1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following:

- (a) Child care facilities;
- (b) Movie theatres;
- (c) Video arcades;
- (d) Government buildings and public places;
- (e) Malls and retail establishments;
- (f) All areas of grocery stores; and
- (g) All indoor areas within restaurants.

2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property.

3. Smoking tobacco is not prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;

(b) Stand-alone bars, taverns and saloons;

(c) Strip clubs or brothels;

(d) Retail tobacco stores; ~~{and}~~

(e) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility; and

(f) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show:

- (1) Is not open to the public;
- (2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and
- (3) Involves the display of tobacco products.

4. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

5. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this section.

6. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.

7. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this section and shall issue citations for violations of this section pursuant to NRS 202.2492 and NRS 202.24925.

8. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section.

9. For the purposes of this section, the following terms have the following definitions:

(a) "Casino" means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word 'casino' as part of its proper name.

(b) "Child care facility" has the meaning ascribed to it in NRS ~~{432A.024.}~~ **441A.030**.

(c) "Completely enclosed area" means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling.

(d) "Government building" means any building or office space owned or occupied by:

- (1) Any component of the Nevada System of Higher Education and used for any purpose related to the System;
- (2) The State of Nevada and used for any public purpose; or

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

(e) "Health authority" has the meaning ascribed to it in NRS 202.2485.

(f) "Incidental food service or sales" means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870.

(g) "Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas.

(h) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted.

(i) "Restaurant" means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

(j) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(k) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(l) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(m) "Stand-alone bar, tavern or saloon" means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section. In addition, a stand-alone bar, tavern or saloon must be housed in either:

(1) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(2) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

(n) "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

10. Any statute or regulation inconsistent with this section is null and void.

11. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect

the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

~~{Sec. 3.}~~ **Sec. 14.** NRS 441A.030 is hereby amended to read as follows:

441A.030 1. "Child care facility" ~~{has the meaning ascribed to it in NRS 432A.024.}~~ *means:*

(a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;

(b) An on-site child care facility, as defined in NRS 432A.0275;

(c) A child care institution, as defined in NRS 432A.0245; or

(d) An outdoor youth program, as defined in NRS 432A.028.

2. *The term does not include:*

(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; or

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity.

~~{Sec. 4.}~~ **Sec. 15.** NRS 444.065 is hereby amended to read as follows:

444.065 1. Except as otherwise provided in subsection 2, as used in NRS 444.065 to 444.120, inclusive, "public swimming pool" means any structure containing an artificial body of water that is intended to be used collectively by persons for swimming or bathing, regardless of whether a fee is charged for its use.

2. The term does not include any such structure at:

(a) A private residence if the structure is controlled by the owner or other authorized occupant of the residence and the use of the structure is limited to members of the family of the owner or authorized occupant of the residence or invited guests of the owner or authorized occupant of the residence.

(b) A family foster home as defined in NRS 424.013.

(c) A child care facility, as defined in NRS ~~{432A.024.}~~ **441A.030**, furnishing care to 12 children or less.

(d) Any other residence or facility as determined by the State Board of Health.

(e) Any location if the structure is a privately owned pool used by members of a private club or invited guests of the members.

Sec. 16. On or before July 1, 2012, the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services shall adopt regulations for the operation of out-of-school recreation programs pursuant to sections 5 to 9, inclusive, of this act.

~~[Sec. 5.]~~ **Sec. 17.** This act becomes effective upon passage and approval.

Senator Copening moved the adoption of the amendment.

Remarks by Senators Copening, McGinness and Kieckhefer.

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

SENATOR COPENING:

Amendment No. 201 revises Senate Bill No. 53 by revising the definition of "child care facility" to exclude from the term certain seasonal or temporary recreation programs and certain out-of-school recreation programs so that such programs are not required to be licensed, requiring local government to obtain a permit to operate an out-of-school recreation program. To obtain a permit, the local government must complete an application, pay a fee, and meet certain requirements mandating that these programs comply with certain health and safety standards, and other requirements relating to the safety of participants. The amendment establishes requirements related to staff, limits on enrollment, record keeping, and inspections.

SENATOR MCGINNESS:

Does this require the local government operation to follow the same regulations and permits as a private operation would?

SENATOR COPENING:

I do not know the answer to that. I do not know if there was a particular sponsor for this bill. It may have been a committee bill.

SENATOR MCGINNESS:

Does this require the governmental agency that operates this facility or program to meet the same criteria as a private one?

SENATOR KIECKHEFER:

It does not require the same criteria. The idea behind the bill was that government school districts would be running after school or out of school programs within a school or a recreational facility in which children are already placed throughout the course of the day. This would have some additional oversight requirements that they do not have now, but they would not have to meet the same licensing requirements that are currently met by private childcare providers in terms of facility or infrastructure. This was a compromise that was made between various local government entities and the State regulatory agency.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 64.

Bill read second time.

The following amendment was proposed by the Select Committee on Economic Growth and Employment:

Amendment No. 307.

"SUMMARY—Establishes a program for the investment of state money in certificates of deposit at a reduced rate of interest to provide lending institutions with money for loans at a reduced rate of interest to certain eligible entities. (BDR 31-522)"

"AN ACT relating to state obligations; establishing a program for the investment of state money in certificates of deposit at a reduced rate of interest to provide qualified lending institutions with money for loans at a

reduced rate of interest to certain eligible entities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State Treasurer to invest the money of this State in ~~negotiable~~ certificates of deposit issued by commercial banks, insured credit unions or savings and loan associations. (NRS 355.140) **Section 9** of this bill requires the State Treasurer to establish the Linked Deposit Program, whereby the State Treasurer may, in an aggregate amount not to exceed \$20,000,000, invest in certificates of deposit with commercial banks, insured credit unions or insured savings and loan associations at a reduced rate of interest on the condition that the lending institution link the value of each such certificate of deposit to a loan at a reduced rate of interest to certain small businesses, political subdivisions of this State and institutions of higher education in this State. **Section 9** also provides that the rate of interest paid to the State on the deposit is not to be more than 2 percentage points below the market rate for such a deposit, and that the loan rate of interest is to be equal to the rate of interest paid to the State on the deposit. **Section 9** further requires the lending institution to sign an agreement with the State Treasurer specifying the terms of such a deposit and its linked loan.

Section 11 of this bill requires a lending institution that participates in the Linked Deposit Program to apply the institution's standard lending criteria to determine the creditworthiness of an eligible applicant seeking a loan. **Section 11** also limits such loans to an amount not to exceed \$500,000 and to a term of not more than 5 years. **Section 12** of this bill requires that, for loans made to certain eligible entities, a preference be given to certain in-state businesses that ~~[(1) are owned by a member of a racial or ethnic minority, a woman or an honorably discharged veteran of the Armed Forces of the United States; or (2)]~~ engage in the production and sale of fuel or power derived from renewable energy sources. **Under sections 16.5, 17.5 and 18 of this bill, upon a determination by the Attorney General that a preference for the granting of linked deposit loans for certain businesses which are at least 51-percent owned by a woman or a member of a racial or ethnic minority is constitutional and the issuance of a proclamation by the Governor to that effect, a preference must be given to certain in-state businesses which are at least 51-percent owned by a member of a racial or ethnic minority, a woman or a person who is a veteran discharged from the Armed Forces of the United States under other than dishonorable conditions.** **Section 13** of this bill authorizes certain out-of-state businesses to apply for such a loan if they provide **certain information, including, without limitation,** proof of their intent to open a facility or office in this State, **and proof that 60 percent of the persons they intend to employ at that facility or office hold a valid Nevada driver's license or identification card.** **Sections 12, ~~and~~ 13 and 16.5** also limit the types of businesses that are eligible to participate in the Linked Deposit Program and require eligible businesses to use the proceeds from the

loan for certain purposes. **Sections 14 and 15** of this bill authorize political subdivisions of this State and institutions of higher education in this State to obtain a loan under the Program and to use the proceeds for certain purposes.

Section 17 of this bill prohibits the State Treasurer from making any new investments through the Linked Deposit Program after June 30, ~~2013~~ **2015**.

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

Section 1. Chapter 355 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *The Legislature hereby declares that the public policy of this State is to benefit the general welfare of the people of this State by improving the state economy through the encouragement of lending at reduced rates of interest to minority-owned and certain other small businesses, political subdivisions of this State and institutions of higher education in this State.*

Sec. 3. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Eligible entity" means:*

1. A business that meets the requirements of section 12 or 13 of this act;

2. A political subdivision of this State that meets the requirements of section 14 of this act; or

3. An institution of higher education in this State that meets the requirements of section 15 of this act.

Sec. 5. *"Linked deposit" means a certificate of deposit issued pursuant to section 9 of this act to the State Treasurer by a qualified lending institution.*

Sec. 6. *"Linked Deposit Program" means the loan program established pursuant to section 9 of this act.*

Sec. 7. ~~*"Loan package" or "linked deposit loan package" means the information submitted by a qualified lending institution to the State Treasurer pursuant to section 11 of this act.*~~ **(Deleted by amendment.)**

Sec. 8. *"Qualified lending institution" means a commercial bank, an insured savings and loan association or an insured credit union in this State that meets the eligibility requirements of section 10 of this act.*

Sec. 9. 1. *The State Treasurer shall establish the Linked Deposit Program to increase the availability of loans at a reduced rate of interest to eligible entities.*

2. The State Treasurer may invest in certificates of deposit at a reduced rate of interest with qualified lending institutions upon ~~acceptance of a loan package~~ receipt of the form required pursuant to subsection 2 of section 11 of this act. Each certificate of deposit issued pursuant to this section by a qualified lending institution to the State Treasurer must be

linked to a loan at a reduced rate of interest made by the qualified lending institution to an eligible entity.

3. The total amount invested in linked deposits by the State Treasurer at any one time may not exceed, in the aggregate, \$20,000,000.

4. ~~The State Treasurer may accept or reject a linked deposit loan package.~~

5. ~~Upon acceptance of a linked deposit loan package,~~ receipt of the form required pursuant to subsection 2 of section 11 of this act:

(a) The State Treasurer may place a linked deposit with the lending institution at a rate of interest that is not more than 2 percentage points below the market rate for such a deposit at that lending institution. The State Treasurer shall determine and calculate all linked deposit rates of interest.

(b) The qualified lending institution shall enter into a deposit agreement with the State Treasurer, which must include, without limitation, terms that specify:

(1) The rate of interest to be paid on the deposit;

(2) The rate of interest to be charged for the loan linked to the deposit;

(3) That the qualified lending institution shall:

(I) Loan an amount equal to the amount of the deposit placed by the State Treasurer pursuant to paragraph (a) to an eligible entity at a rate of interest that is reduced from the current market rate for such a loan in the same amount as the reduction in rate of interest received by the State Treasurer for the linked deposit;

(II) Verify that the entity is eligible for such a loan pursuant to the applicable provisions of section 12, 13, 14 or 15 of this act;

(III) Collect and provide the State Treasurer with any information that is requested by the State Treasurer pertaining to the loan and the eligible entity; and

(IV) Immediately notify the State Treasurer if the eligible entity becomes ineligible for the Linked Deposit Program during the term of the loan;

(4) That the rate of interest to be paid on the deposit placed by the State Treasurer pursuant to paragraph (a) will revert to the current market rate at the time the eligible entity becomes ineligible for the Linked Deposit Program; and

(5) Any other requirements that are necessary to carry out the Linked Deposit Program.

~~6. 5. The State Treasurer shall compile and maintain:~~

(a) Prepare a report highlighting the benefits of the Linked Deposit Program;

(b) Make the report prepared pursuant to paragraph (a) available on the Internet website of the State Treasurer ~~for a list of eligible entities that have~~

~~received loans pursuant to the Linked Deposit Program. The list must include, without limitation, for each eligible entity listed:~~

- ~~(a) The name of the eligible entity;~~
- ~~(b) The type of eligible entity;~~
- ~~(c) The location of the eligible entity;~~
- ~~(d) The amount and term of the loan; and~~
- ~~(e) The name and location of the qualified lending institution that made the loan; and~~

(c) Provide to the Legislature a copy of the report prepared pursuant to paragraph (a).

Sec. 10. To qualify for participation in the Linked Deposit Program, a lending institution must:

1. Be a commercial bank organized under chapter 659 of NRS, an insured savings and loan association organized under chapter 673 of NRS or an insured credit union organized under chapter 678 of NRS;

2. Agree to advertise actively to and inform potentially eligible entities of the availability of loans at a reduced rate of interest through the Linked Deposit Program;

3. ~~Make information about the Linked Deposit Program available to the public on the Internet website of the lending institution, if any; and~~

~~4. Apply for qualification to offer loans pursuant to the Linked Deposit Program on a form provided by the State Treasurer ~~+~~ ; and~~

4. Agree to gather and provide to the State Treasurer the following information for each person who submits an application to the lending institution for a loan pursuant to the Linked Deposit Program:

(a) Whether the lending institution approved the application for the loan;

(b) If the applicant for the loan is a natural person, the race, ethnicity and gender of the natural person and whether that person is a veteran of the Armed Forces of the United States who was discharged under other than dishonorable conditions; and

(c) If the applicant for the loan is not a natural person, a political subdivision of this State or an institution of higher education, the race, ethnicity and gender of each natural person with an ownership interest in the applicant and whether a natural person with an ownership interest in the applicant is a veteran of the Armed Forces of the United States who was discharged under other than dishonorable conditions.

Sec. 11. 1. A qualified lending institution that desires to receive a linked deposit must accept and review applications for linked deposit loans from eligible entities on a form provided by the State Treasurer. The lending institution shall apply the standard lending criteria of the lending institution to determine the creditworthiness of each eligible entity ~~, ~~+~~ including, without limitation, the consideration of the following factors, if applicable:~~

- ~~(a) The character, reputation and credit history of the applicant;~~

- ~~(b) The experience and depth of management of the eligible entity;~~
- ~~(c) The financial strength of the eligible entity;~~
- ~~(d) The past earnings, projected cash flow and future prospects of the eligible entity;~~
- ~~(e) The ability of the eligible entity to repay the loan;~~
- ~~(f) Whether sufficient invested equity exists to operate the eligible entity on a sound financial basis; and~~
- ~~(g) Whether the eligible entity has potential for long-term financial stability.~~

2. A qualified lending institution must submit ~~[a loan package]~~ to the State Treasurer a form provided by the State Treasurer for each loan made pursuant to the Linked Deposit Program. ~~for a form provided by the State Treasurer.~~ The ~~[loan package]~~ form must include, without limitation, verification by the qualified lending institution that the eligible entity meets the requirements of this section and the applicable provisions of section 12, 13, 14 or 15 of this act, and that the use of the proceeds as specified in the loan meets the applicable requirements of section 12, 13, 14 or 15 of this act.

3. A loan made pursuant to the Linked Deposit Program must not:

- (a) Exceed \$500,000; or
- (b) Have a term of more than 5 years.

Sec. 12. Except as otherwise provided in section 13 of this act:

1. To be eligible for a loan pursuant to the Linked Deposit Program, a business must:

- (a) Employ not more than 100 employees;
- (b) Be headquartered in this State;
- (c) Maintain offices or operating facilities in this State;
- (d) Transact business in this State;
- (e) Be organized for profit;
- (f) Satisfy the standard lending criteria of the qualified lending institution;
- (g) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and
- (h) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. In determining which eligible business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal, ~~to~~

~~(a) First, to a business that is at least 51 percent owned by a resident of this State who is:~~

- ~~(1) A member of a racial or ethnic minority;~~
- ~~(2) A woman; or~~
- ~~(3) An honorably discharged veteran of the Armed Forces of the United States.~~

~~(b) Second,~~ *to a business engaged in the production and sale of fuel or power derived from renewable energy as defined by NRS 701.070.*

3. *An eligible business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:*

- (a) Working capital;*
- (b) Acquiring real property;*
- (c) Establishing a line of credit;*
- (d) Financing of accounts receivable;*
- (e) Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and*
- (f) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.*

4. *The following types of businesses are not eligible for a loan pursuant to the Linked Deposit Program:*

- (a) A nonprofit business;*
- (b) A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;*
- (c) A speculative real estate development company;*
- (d) A subsidiary of a business located in a foreign country;*
- (e) A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and*
- (f) A business that engages in any illegal activity.*

Sec. 13. 1. *To be eligible for a loan pursuant to the Linked Deposit Program, an out-of-state business must:*

- (a) Employ not more than 100 employees;*
- (b) Be organized for profit;*
- (c) Satisfy the standard lending criteria of the qualified lending institution;*
- (d) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer;*
- (e) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution;*
- (f) Provide proof satisfactory to the State Treasurer that the business intends to open a facility or office in this State within 180 days after receiving a linked deposit loan; ~~and~~*
- (g) Provide proof satisfactory to the State Treasurer that the business intends to employ at the facility or office located in this State at least 10 full-time employees ~~+~~; and*
- (h) Provide proof satisfactory to the State Treasurer that at least 60 percent of the persons that the business intends to employ at the facility or office located in this State hold a valid driver's license or identification card issued by the Department of Motor Vehicles.*

2. *An eligible out-of-state business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:*

- (a) *Working capital;*
- (b) *Acquiring real property;*
- (c) *Establishing a line of credit;*
- (d) *Financing of accounts receivable;*
- (e) *Opening a facility or office in this State;*
- (f) *Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and*
- (g) *Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.*

3. *The following types of out-of-state businesses are not eligible for a loan pursuant to the Linked Deposit Program:*

- (a) *A nonprofit business;*
- (b) *A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;*
- (c) *A speculative real estate development company;*
- (d) *A subsidiary of a business located in a foreign country;*
- (e) *A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and*
- (f) *A business that engages in any illegal activity.*

Sec. 14. 1. *To be eligible for a loan pursuant to the Linked Deposit Program, a political subdivision of this State must:*

- (a) *Satisfy the standard lending criteria of the qualified lending institution;*
- (b) *Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and*
- (c) *Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.*

2. *An eligible political subdivision of this State:*

(a) *Shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:*

- (1) *Financing capital improvements;*
- (2) *Capital outlay; and*
- (3) *Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act; and*

(b) *Shall not use the proceeds from a loan received pursuant to the Linked Deposit Program to meet operating expenses.*

Sec. 15. 1. *To be eligible for a loan pursuant to the Linked Deposit Program, an institution of higher education, as defined by NRS 385.102, must:*

- (a) *Satisfy the standard lending criteria of the qualified lending institution;*

(b) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and

(c) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. An eligible institution of higher education:

(a) Shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

(1) Financing capital improvements; and

(2) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act; and

(b) Shall not use the proceeds from a loan received pursuant to the Linked Deposit Program to meet operating expenses.

Sec. 16. *The State Treasurer shall adopt regulations necessary to carry out the provisions of sections 2 to 16, inclusive, of this act.*

Sec. 16.5. **Section 12 of this act is hereby amended to read as follows:**

Sec. 12. Except as otherwise provided in section 13 of this act:

1. To be eligible for a loan pursuant to the Linked Deposit Program, a business must:

(a) Employ not more than 100 employees;

(b) Be headquartered in this State;

(c) Maintain offices or operating facilities in this State;

(d) Transact business in this State;

(e) Be organized for profit;

(f) Satisfy the standard lending criteria of the qualified lending institution;

(g) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and

(h) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. In determining which eligible business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal ~~to~~:

(a) First, to a business which is at least 51-percent owned by a resident of this State who is:

(1) A member of a racial or ethnic minority;

(2) A woman; or

(3) A veteran of the Armed Forces of the United States who was discharged under other than dishonorable conditions.

(b) Second, to a business engaged in the production and sale of fuel or power derived from renewable energy as defined by NRS 701.070.

3. An eligible business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

- (a) Working capital;
- (b) Acquiring real property;
- (c) Establishing a line of credit;
- (d) Financing of accounts receivable;
- (e) Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and

(f) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.

4. The following types of businesses are not eligible for a loan pursuant to the Linked Deposit Program:

- (a) A nonprofit business;
- (b) A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;
- (c) A speculative real estate development company;
- (d) A subsidiary of a business located in a foreign country;
- (e) A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and
- (f) A business that engages in any illegal activity.

Sec. 17. ~~Notwithstanding the provisions of section 9 of this act, the State Treasurer shall not accept a linked deposit loan package form for a loan from the Linked Deposit Program established pursuant to section 9 of this act or invest in a certificate of deposit at a reduced rate of interest after June 30, ~~2013~~, 2015.~~

~~¶ 2. As used in this section, "linked deposit loan package" has the meaning ascribed to it in section 7 of this act.~~

Sec. 17.5. 1. At the end of each quarter, a qualified lending institution shall provide to the State Treasurer the information gathered by the qualified lending institution pursuant to subsection 4 of section 10 of this act.

2. The State Treasurer shall compile the information provided pursuant to subsection 1 and provide the information to the Attorney General.

3. The Attorney General shall use the information provided pursuant to subsection 2 to determine whether providing a preference for the receipt of a loan pursuant to the Linked Deposit Program established pursuant to section 9 of this act to a business which is at least 51-percent owned by a woman or a member of a racial or ethnic minority is consistent with the requirements of the Nevada Constitution and the United States Constitution.

4. If the Attorney General determines that providing a preference for the receipt of a loan pursuant to the Linked Deposit Program to a business which is at least 51-percent owned by a woman or a member of

a racial or ethnic minority is consistent with the requirements of the Nevada Constitution and the United States Constitution, the Attorney General must notify the Governor in writing of that determination.

5. Upon receipt of the determination of the Attorney General pursuant to subsection 4, the Governor shall issue a proclamation to that effect.

6. As used in this section, "qualified lending institution" has the meaning ascribed to it in section 8 of this act.

Sec. 18. 1. This ~~act becomes~~ section and sections 1 to 16, inclusive, 17 and 17.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

2. Section 16.5 of this act becomes effective upon a proclamation by the Governor pursuant to subsection 5 of section 17.5 of this act.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 307 to Senate Bill No. 64 provides that special consideration will be provided to businesses that are at least 51 percent owned and operated by a minority, a woman, or a United States military veteran, only in the event that the Attorney General makes a determination that the preferences are constitutional and the Governor makes a proclamation to that effect.

The amendment changes the ending date for the linked deposit program to June 30, 2015. It also specifies that in order for a business that is relocating to Nevada to qualify for a loan under the program, at least 60 percent of the employees will be Nevada residents.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 66.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 119.

"SUMMARY—Revises provisions relating to multidisciplinary teams to review the deaths of victims of crimes that constitute domestic violence. (BDR 18-268)"

"AN ACT relating to domestic violence; authorizing the Attorney General to organize or sponsor multidisciplinary teams to review the death of the victim of a crime that constitutes domestic violence under certain circumstances; revising provisions concerning such teams organized or sponsored by a court or an agency of local government; **imposing a civil penalty upon members of such teams who disclose confidential information concerning the death of a child;** authorizing all such teams to receive data and information from certain reports and investigations and to use certain death certificates; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain unlawful acts constitute domestic violence when committed against certain specified persons. (NRS 33.018) Existing law authorizes a court or an agency of a local government to organize or sponsor one or more multidisciplinary teams to review the death of the victim of a crime that constitutes domestic violence. (NRS 217.475) If a court or an agency of a local government does not organize or sponsor such a team or if the court or agency requests the assistance of the Attorney General, **section 1** of this bill authorizes the Attorney General to organize or sponsor one or more multidisciplinary teams to review the death of the victim of such a crime. **Section 1** also establishes the powers and duties of such teams.

Section 2 of this bill expands the authority of a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by a court or agency of local government under existing law to: (1) obtain relevant information and records concerning the victim and any person who was in contact with the victim; and (2) meet with other teams, persons, agencies and organizations that may have information relevant to the team's review.

Sections 1 and 2 also provide that each member of a multidisciplinary team which is organized or sponsored by the Attorney General or a court or an agency of a local government to review the death of a victim of a crime that constitutes domestic violence who discloses any confidential information concerning the death of a child is liable for a civil penalty of not more than \$500. The Attorney General may bring an action to recover such a civil penalty and shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

Section 3 of this bill adds multidisciplinary teams organized to review the deaths of victims of crimes that constitute domestic violence to the list of entities that are authorized under existing law to receive data or information from certain reports and investigations concerning the abuse or neglect of children. Under existing law, release to the public of information identifying the suspect of such a report by a person who is authorized to have access to the information is a misdemeanor. (NRS 432B.290)

Section 3.5 of this bill specifies that a multidisciplinary team to review the death of a child may, if appropriate, meet and share information with a multidisciplinary team to review the death of a victim of a crime that constitutes domestic violence which is organized or sponsored by the Attorney General or a court or an agency of a local government.

Section 4 of this bill requires the State Board of Health to allow a multidisciplinary team organized to review the death of the victim of a crime that constitutes domestic violence to use death certificates in the custody of the State Registrar of Vital Statistics in the same manner as the Board allows a multidisciplinary team to review the death of a child under existing law.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Attorney General may organize or sponsor one or more multidisciplinary teams to review the death of the victim of a crime that constitutes domestic violence pursuant to NRS 33.018 if a court or an agency of a local government does not organize or sponsor a multidisciplinary team pursuant to NRS 217.475 or if the court or agency requests the assistance of the Attorney General. In addition to the review of a particular case, a multidisciplinary team organized or sponsored by the Attorney General pursuant to this section shall:

(a) Examine the trends and patterns of deaths of victims of crimes that constitute domestic violence in this State;

(b) Determine the number and type of incidents the team wishes to review;

(c) Make policy and other recommendations for the prevention of deaths from crimes that constitute domestic violence;

(d) Engage in activities to educate the public, providers of services to victims of domestic violence and policymakers concerning deaths from crimes that constitute domestic violence and strategies for intervention and prevention of such crimes; and

(e) Recommend policies, practices and services to encourage collaboration and reduce the number of deaths from crimes that constitute domestic violence.

2. A multidisciplinary team organized or sponsored pursuant to this section may include, without limitation, the following members:

(a) A representative of the Attorney General;

(b) A representative of any law enforcement agency that is involved with a case under review;

(c) A representative of the district attorney's office in the county where a case is under review;

(d) A representative of the coroner's office in the county where a case is under review;

(e) A representative of any agency which provides social services that is involved in a case under review;

(f) A person appointed pursuant to subsection 3; and

(g) Any other person that the Attorney General determines is appropriate.

3. An organization that is concerned with domestic violence may apply to the Attorney General or his or her designee for authorization to appoint a member to a multidisciplinary team organized or sponsored pursuant to this section. Such an application must be made in the form and manner prescribed by the Attorney General and is subject to the approval of the Attorney General or his or her designee.

4. *Each organization represented on a multidisciplinary team organized or sponsored pursuant to this section may share with other members of the team information in its possession concerning a victim who is the subject of a review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.*

5. *The organizing or sponsoring of a multidisciplinary team pursuant to this section does not grant the Attorney General supervisory authority over, or restrict or impair the statutory authority of, any state or local governmental agency responsible for the investigation or prosecution of the death of a victim of a crime that constitutes domestic violence pursuant to NRS 33.018.*

6. *Before organizing or sponsoring a multidisciplinary team pursuant to this section, the Attorney General shall adopt a written protocol describing the objectives and structure of the team.*

7. *A multidisciplinary team organized or sponsored pursuant to this section may request any person, agency or organization that is in possession of information or records concerning a victim who is the subject of a review or any person who was in contact with the victim to provide the team with any information or records that are relevant to the review. Any information or records provided to a team pursuant to this subsection are confidential.*

8. *A multidisciplinary team organized or sponsored pursuant to this section may, if appropriate, meet with any person, agency or organization that the team believes may have information relevant to a review conducted by the team, including, without limitation, a multidisciplinary team:*

(a) *To review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475;*

(b) *To review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse, neglect or isolation organized pursuant to NRS 228.270;*

(c) *To review the death of a child organized pursuant to NRS 432B.405;*
or

(d) *To oversee the review of the death of a child organized pursuant to NRS 432B.4075.*

9. ~~*Each*~~ *Except as otherwise provided in subsection 10, each member of a multidisciplinary team organized or sponsored pursuant to this section is immune from civil or criminal liability for an activity related to the review of the death of a victim.*

10. *Each member of a multidisciplinary team organized or sponsored pursuant to this section who discloses any confidential information concerning the death of a child is personally liable for a civil penalty of not more than \$500.*

11. *The Attorney General:*

(a) May bring an action to recover a civil penalty imposed pursuant to subsection 10 against a member of a multidisciplinary team organized or sponsored pursuant to this section; and

(b) Shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

12. The results of a review of the death of a victim conducted pursuant to this section are not admissible in any civil action or proceeding.

~~1117~~ 13. A multidisciplinary team organized or sponsored pursuant to this section shall submit a report of its activities to the Attorney General. The report must include, without limitation, the findings and recommendations of the team. The report must not include information that identifies any person involved in a particular case under review. The Attorney General shall make the report available to the public.

Sec. 2. NRS 217.475 is hereby amended to read as follows:

217.475 1. A court or an agency of a local government may organize or sponsor one or more multidisciplinary teams to review the death of the victim of a crime that constitutes domestic violence pursuant to NRS 33.018.

2. If a multidisciplinary team is organized or sponsored pursuant to subsection 1, the court or agency shall review the death of a victim upon receiving a written request from a person related to the victim within the third degree of consanguinity, if the request is received by the court or agency within 1 year after the date of death of the victim.

3. Members of a team that is organized or sponsored pursuant to subsection 1 serve at the pleasure of the court or agency that organizes or sponsors the team and must include, without limitation, representatives of organizations concerned with law enforcement, issues related to physical or mental health, or the prevention of domestic violence and assistance to victims of domestic violence.

4. Each organization represented on such a team may share with other members of the team information in its possession concerning the victim who is the subject of the review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.

5. A team organized *or sponsored* pursuant to this section may, upon request, provide a report concerning its review to a person related to the victim within the third degree of consanguinity.

6. Before establishing a team to review the death of a victim pursuant to this section, a court or an agency shall adopt a written protocol describing its objectives and the structure of the team.

7. *A team organized or sponsored pursuant to this section may request any person, agency or organization that is in possession of information or records concerning the victim who is the subject of the review or any person who was in contact with the victim to provide the team with any information or records that are relevant to the team's review. Any*

information or records provided to a team pursuant to this subsection are confidential.

8. A team organized *or sponsored* pursuant to this section may, if appropriate, meet with *any person, agency or organization that the team believes may have information relevant to the review conducted by the team, including, without limitation,* a multidisciplinary team ~~{to}~~ :

(a) *To review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to section 1 of this act;*

(b) *To review the death of a child organized pursuant to NRS 432B.405 {}* ~~{and} or~~

(c) *To oversee the review of the death of a child organized pursuant to NRS 432B.4075.*

~~{8.}~~ 9. ~~Each~~ *Except as otherwise provided in subsection 10, each* member of a team organized *or sponsored* pursuant to this section is immune from civil or criminal liability for an activity related to the review of the death of a victim.

~~{9.}~~ 10. *Each member of a team organized or sponsored pursuant to this section who discloses any confidential information concerning the death of a child is personally liable for a civil penalty of not more than \$500.*

11. The Attorney General:

(a) May bring an action to recover a civil penalty imposed pursuant to subsection 10 against a member of a team organized or sponsored pursuant to this section; and

(b) Shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

12. The results of the review of the death of a victim pursuant to this section are not admissible in any civil action or proceeding.

Sec. 3. NRS 432B.290 is hereby amended to read as follows:

432B.290 1. Except as otherwise provided in subsections 2 and 3 and NRS 432B.165, 432B.175 and 432B.513, data or information concerning reports and investigations thereof made pursuant to this chapter may be made available only to:

(a) A physician, if the physician has before him or her a child who the physician has reasonable cause to believe has been abused or neglected;

(b) A person authorized to place a child in protective custody, if the person has before him or her a child who the person has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody;

(c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:

(1) The child; or

(2) The person responsible for the welfare of the child;

(d) A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the abuse or neglect of a child;

(e) A court, for in camera inspection only, unless the court determines that public disclosure of the information is necessary for the determination of an issue before it;

(f) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to the person;

(g) The attorney and the guardian ad litem of the child;

(h) A grand jury upon its determination that access to these records is necessary in the conduct of its official business;

(i) A federal, state or local governmental entity, or an agency of such an entity, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;

(j) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;

(k) A team organized pursuant to NRS 432B.350 for the protection of a child;

(l) A team organized pursuant to NRS 432B.405 to review the death of a child;

(m) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential;

(n) The persons who are the subject of a report;

(o) An agency that is authorized by law to license foster homes or facilities for children or to investigate persons applying for approval to adopt a child, if the agency has before it an application for that license or is investigating an applicant to adopt a child;

(p) Upon written consent of the parent, any officer of this State or a city or county thereof or Legislator authorized, by the agency or department having jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the activities or programs of an agency which provides child welfare services if:

(1) The identity of the person making the report is kept confidential; and

(2) The officer, Legislator or a member of the family of the officer or Legislator is not the person alleged to have committed the abuse or neglect;

(q) The Division of Parole and Probation of the Department of Public Safety for use pursuant to NRS 176.135 in making a presentence investigation and report to the district court or pursuant to NRS 176.151 in making a general investigation and report;

(r) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency;

(s) The Rural Advisory Board to Expedite Proceedings for the Placement of Children created pursuant to NRS 432B.602 or a local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604;

(t) The panel established pursuant to NRS 432B.396 to evaluate agencies which provide child welfare services; ~~for~~

(u) An employer in accordance with subsection 3 of NRS 432.100 ~~to~~; *or*

(v) A team organized or sponsored pursuant to NRS 217.475 or section 1 of this act to review the death of the victim of a crime that constitutes domestic violence.

2. An agency investigating a report of the abuse or neglect of a child shall, upon request, provide to a person named in the report as allegedly causing the abuse or neglect of the child:

(a) A copy of:

(1) Any statement made in writing to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(2) Any recording made by the agency of any statement made orally to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(b) A written summary of the allegations made against the person who is named in the report as allegedly causing the abuse or neglect of the child. The summary must not identify the person responsible for reporting the alleged abuse or neglect.

3. An agency which provides child welfare services shall disclose the identity of a person who makes a report or otherwise initiates an investigation pursuant to this chapter if a court, after reviewing the record in camera and determining that there is reason to believe that the person knowingly made a false report, orders the disclosure.

4. Any person, except for:

(a) The subject of a report;

(b) A district attorney or other law enforcement officer initiating legal proceedings; or

(c) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report pursuant to NRS 176.151,

➤ who is given access, pursuant to subsection 1, to information identifying the subjects of a report and who makes this information public is guilty of a misdemeanor.

5. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section.

Sec. 3.5. NRS 432B.407 is hereby amended to read as follows:

432B.407 1. A multidisciplinary team to review the death of a child is entitled to access to:

(a) All investigative information of law enforcement agencies regarding the death;

(b) Any autopsy and coroner's investigative records relating to the death;

(c) Any medical or mental health records of the child; and

(d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the child or the child's family.

2. Each organization represented on a multidisciplinary team to review the death of a child shall share with other members of the team information in its possession concerning the child who is the subject of the review, any siblings of the child, any person who was responsible for the welfare of the child and any other information deemed by the organization to be pertinent to the review.

3. **A multidisciplinary team to review the death of a child may, if appropriate, meet and share information with a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475 or section 1 of this act.**

4. A multidisciplinary team to review the death of a child may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the team. Except as otherwise provided in NRS 239.0115, any books, records or papers received by the team pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.

~~{4. Information}~~

5. **Except as otherwise provided in this section, information** acquired by, and the records of, a multidisciplinary team to review the death of a child are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.

Sec. 4. NRS 440.170 is hereby amended to read as follows:

440.170 1. All certificates in the custody of the State Registrar are open to inspection subject to the provisions of this chapter. It is unlawful for any employee of the State to disclose data contained in vital statistics, except as authorized by this chapter or by the Board.

2. Information in vital statistics indicating that a birth occurred out of wedlock must not be disclosed except upon order of a court of competent jurisdiction.

3. The Board:

(a) Shall allow the use of data contained in vital statistics to carry out the provisions of NRS 442.300 to 442.330, inclusive;

(b) Shall allow the use of certificates of death by a multidisciplinary team ~~to~~ :

(1) To review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475 or section 1 of this act; and

(2) To review the death of a child established pursuant to NRS 432B.405 and 432B.406; and

(c) May allow the use of data contained in vital statistics for other research purposes, but without identifying the persons to whom the records relate.

Senator Copeney moved the adoption of the amendment.

Remarks by Senator Copeney.

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

Amendment No. 119 imposes a civil penalty up to \$500 on any member of a Domestic Violence Fatality team who discloses confidential information concerning the death of a victim. The penalty is the same as the existing penalty already imposed on the member of a Child Fatality team for the disclosure of similar information.

The amendment also clarifies the authority for Child Fatality teams to work with Domestic Fatality teams on cases that may overlap.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 200.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 162.

"SUMMARY—Makes various changes relating to time shares. (BDR 10-217)"

"AN ACT relating to time shares; restricting the disclosure of certain information about owners of time shares; requiring certain mailings to owners of time shares upon request by an owner; allowing a notice of sale on the foreclosure of a time share to be given by posting on an Internet website under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill requires the manager or board of an association of a time-share plan to maintain a list of owners of time shares in the plan. **Section 2** also prohibits the manager or board from disclosing personal information about an owner without the prior written consent of the owner except under certain circumstances.

Section 3 of this bill requires the manager or board of an association of a time-share plan to: (1) mail certain materials to all owners on the list of owners of time shares in the plan upon the request of an owner under certain circumstances; ~~and~~ (2) provide an owner with the option to place certain limits on the information that may be provided to other owners; (3) provide an owner with a written disclosure regarding the potential effect of giving consent to publish or furnish information about the owner; and (4) establish procedures for such mailings.

Existing law requires that, among other forms of notice, a sale of a time share to satisfy a lien for unpaid assessments be noticed by publication in a newspaper under certain circumstances. (NRS 119A.560) **Section 4** of this bill authorizes, as an alternative to ~~that~~ **the newspaper** form of publication, such a notice of sale **and a declaration in a form to be prepared by the Real Estate Division of the Department of Business and Industry** to be posted on an Internet website if a statement of the Internet address is also published in a newspaper.

Existing law requires that, among other forms of notice, a sale of real property in foreclosure under a deed of trust be noticed by publication in a newspaper under certain circumstances. (NRS 107.080) **Section 5** of this bill authorizes, as an alternative to that form of publication, a notice of a time share in foreclosure under a deed of trust to be posted on an Internet website if a statement of the Internet address is also published in a newspaper.

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

Section 1. Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A manager or, if there is no manager, the board shall maintain in the records of an association a complete list of the names and mailing addresses of all owners. The list must be updated not less frequently than quarterly.*

2. If a time-share plan is part of a common-interest community governed by chapter 116 of NRS, the names and addresses of delegates or representatives who are elected pursuant to NRS 116.31105 or, if there are none, the name and address of the association must appear on the list of owners of an association organized under NRS 116.3101 in lieu of the names, addresses and other personal information of the individual owners.

3. Notwithstanding any provision of the declaration or bylaws of a time-share plan to the contrary, a manager or a board may not, except as otherwise authorized or required by law, publish or furnish any information about any owner to any other owner or any other person without the prior written consent of the owner whose information is requested.

4. Before obtaining the written consent of an owner pursuant to subsection 3, a manager or a board shall provide the owner with:

(a) The option to limit the information about the owner that may be published or furnished to any other owner or any other person:

(1) To exclusively the owner's name and mailing address; and

(2) For use only in legitimate matters of business of the association.

(b) The following written disclosure:

**BY GIVING YOUR CONSENT TO PUBLISH OR FURNISH
INFORMATION ABOUT YOU FOR PURPOSES OTHER THAN
LEGITIMATE MATTERS OF BUSINESS OF THE**

ASSOCIATION, THE INFORMATION COULD BE USED FOR COMMERCIAL OR OTHER PURPOSES.

5. The provisions of this section ~~[supersede]~~ :

(a) Do not restrict the use by a manager or a board of information about an owner in the performance of their respective duties under the declaration of a time share plan or as otherwise required by law.

(b) Supersede any provisions of chapter 82 of NRS to the contrary.

Sec. 3. 1. A manager or, if there is no manager, the board shall:

(a) Establish reasonable procedures by which owners may:

(1) Solicit votes or proxies from other owners; and

(2) Provide information to other owners with respect to legitimate matters of business of the association.

(b) Mail to all persons included in the list of owners materials provided by an owner upon the request of that owner if the purpose of the mailing is to advance legitimate matters of business of the association, including, without limitation, a solicitation of a proxy for any purpose, provided that the owner who requests the mailing:

(1) Provides to the manager or board a separate copy of the materials for each of the owners on the list or, if the mailing is to be transmitted electronically, a single copy of the materials in an electronic format; and

(2) Pays the association the actual costs of the mailing before the mailing.

2. The board is responsible for determining whether a mailing requested pursuant to this section advances legitimate matters of business of the association.

3. The manager or board, as applicable, may determine the manner in which a mailing may be accomplished.

4. For the purposes of this section, "mail" and "mailing" include, without limitation, a distribution made by electronic or similar means, such as the transmission of electronic mail as defined in NRS 41.715.

Sec. 4. NRS 119A.560 is hereby amended to read as follows:

119A.560 1. The power of sale may not be exercised until:

(a) The developer or the association, its agent or attorney has first executed and caused to be recorded with the recorder of the county wherein the project is located a notice of default and election to sell the time share or cause its sale to satisfy the assessment lien; and

(b) The owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement for 60 days computed as prescribed in subsection 2.

2. The 60-day period provided in subsection 1 begins on the first day following the day upon which the notice of default and election to sell is recorded and a copy of the notice is mailed by certified or registered mail with postage prepaid to the owner or to his or her successor in interest at the owner's address if that address is known, otherwise to the address of the project. The notice must describe the deficiency in payment.

3. The developer or the association, its agent or attorney shall, after expiration of the 60-day period and before selling the time share, give notice of the time and place of the sale in the manner and for a time not less than that required for the sale of real property upon execution, except that ~~{a}~~ :

(a) A copy of the notice of sale must be mailed on or before the first publication or posting required by NRS 21.130 by certified or registered mail with postage prepaid to the owner or to his or her successor in interest at the owner's address if that address is known, otherwise to the address of the project ~~{}~~ ; and

(b) *In lieu of publishing a copy of the notice of sale in a newspaper pursuant to the provisions of NRS 21.130, the notice of sale may be given by posting a copy of the notice and a declaration pursuant to NRS 53.045 in a form prescribed by the Division pursuant to subsection 6 for 3 successive weeks on an Internet website and publishing three times, once a week for 3 successive weeks, in a newspaper, if there is one in the county, a statement, in at least 10-point bold type, which includes, without limitation:*

(1) *A statement that the notice of sale for the foreclosure of the time share is posted on an Internet website;*

(2) *The Internet address where the notice is posted; and*

(3) *The name and street address of the property in which the time share is located.*

4. The sale may be made at the office of the developer or the association if the notice so provided, whether the project is located within the same county as the office of the developer or the association or not.

~~{4-}~~ 5. Every sale made under the provisions of NRS 119A.550 vests in the purchaser the title of the owner without equity or right of redemption.

6. The Division shall prepare a form for a declaration pursuant to NRS 53.045 that a developer or association must post on an Internet website with a notice of sale pursuant to paragraph (b) of subsection 3.

Sec. 5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and

(d) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and

(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3 month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated ~~and~~ *or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement pursuant to the provisions of subsection 3 of NRS 119A.560;* and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

9. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 8, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lien holder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

10. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

➤ The fees collected pursuant to this subsection must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.

11. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 10.

12. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 162 to Senate Bill No. 200 requires the manager or an association of a time share plan to provide a unit owner with;

A) The option of limiting information that may be provided to other owners, and;

B) A written disclosure about the potential effect of providing personal information to others.

As an alternative to publication of a foreclosure sale in the newspaper. The amendment also allows for the use of a declaration form provided by the Real Estate Division.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 201.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 232.

"SUMMARY—~~[Revises provisions relating to correctional institutions.]~~
Authorizes the Attorney General to establish a program to mediate complaints by offenders. (BDR 16-827)"

"AN ACT relating to correctional institutions; ~~[establishing an Ombudsman for Offenders to receive and process]~~ **authorizing the Attorney General to establish a program to mediate** complaints by offenders; ~~[and certain other persons; establishing the powers and duties of the Ombudsman; requiring the Ombudsman to adopt regulations relating to the processing of such complaints; requiring the Ombudsman to make certain reports to the Department of Corrections, the Legislature and the Advisory Commission on the Administration of Justice; requiring the Director of the Department to adopt regulations which comply with certain standards;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 7 of this bill creates the Office of the Ombudsman for Offenders within the Office of the Attorney General.]~~

~~Section 8 of this bill grants the Attorney General the power to appoint and remove the Ombudsman for Offenders.~~

~~Section 9 of this bill sets forth the powers of the Ombudsman.~~

~~Sections 10 and 11 of this bill specify the accounting and use of money collected by the Ombudsman.~~

~~Section 12 of this bill directs the Ombudsman]~~ **This bill authorizes the Attorney General** to establish ~~[regulations governing the receipt, processing and reporting of]~~ **a program to mediate** complaints from ~~[Legislators,]~~ offenders, ~~[and family members of offenders and from the Ombudsman.]~~

~~Sections 13 and 17 of this bill specify the responsibilities of the Ombudsman concerning the processing and reporting of complaints and actions taken in response to the complaints.~~

~~Section 14 of this bill requires the Ombudsman to notify certain persons of the Ombudsman's decision regarding the processing of a complaint.~~

~~Section 15 of this bill makes confidential certain information relating to complaints, reports and recommendations.~~

~~Section 16 of this bill requires the Ombudsman to prepare and submit a biennial report for the Department of Corrections, the Legislature and the Advisory Commission on the Administration of Justice.~~

~~Section 18 of this bill prohibits the penalizing of an offender for certain acts relating to complaints and prohibits the hindrance of the Ombudsman in performing the duties of office.~~

~~Section 19 of this bill provides that the authority of the Ombudsman is not exclusive of other available remedies.~~

~~Existing law requires the Director of the Department to protect the health and safety of the staff and offenders in the institutions and facilities of the Department. (NRS 209.131) Section 20 of this bill requires the Director to establish regulations which comply with the standards set by the National Commission on Correctional Health Care to govern staff training in medical emergency response and reporting.~~

~~Existing law also requires the Director to establish standards for the personal hygiene of offenders and for the medical and dental services at correctional institutions and facilities. (NRS 209.381) Section 21 of this bill requires those standards to comply with standards set by the National Commission on Correctional Health Care.~~

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

Section 1. ~~[Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 3. ~~["Administrative act" includes an action, omission, decision, recommendation, practice or other procedure of the Department.]~~ **(Deleted by amendment.)**

Sec. 4. ~~["Complainant" means a Legislator, an offender or a family member of an offender who files a complaint as described in section 12 of this act.]~~ **(Deleted by amendment.)**

Sec. 5. ~~["Official" means the Director, a deputy director, manager, warden or employee of the Department.]~~ **(Deleted by amendment.)**

Sec. 6. ~~["Ombudsman" means the Ombudsman for Offenders.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[The Office of the Ombudsman for Offenders is hereby created within the Office of the Attorney General.]~~ **(Deleted by amendment.)**

Sec. 8. ~~[1. The Attorney General shall appoint the Ombudsman. The Ombudsman is in the unclassified service of the State. The person appointed:~~
~~(a) Must be knowledgeable in the field of corrections; and~~
~~(b) Must be independent of the Department.~~

~~2. The Attorney General may remove the Ombudsman from office for inefficiency, neglect of duty or malfeasance in office.] (Deleted by amendment.)~~

Sec. 9. ~~[The Ombudsman may:~~

~~1. Employ such staff as is necessary to carry out the duties and functions of his or her office, in accordance with the personnel practices and procedures established within the Attorney General's Office. The Ombudsman has sole discretion to employ and remove any member of his or her staff.~~

~~2. Purchase necessary equipment.~~

~~3. Lease or make other suitable arrangements for office space, but any lease which extends beyond the term of 1 year must be reviewed and approved by a majority of the members of the State Board of Examiners.~~

~~4. Perform such other functions and make such other arrangements as may be necessary to carry out the duties and functions of his or her office.] (Deleted by amendment.)~~

Sec. 10. ~~[1. All money collected by the Ombudsman must be deposited with the State Treasurer for credit to the Account for the Ombudsman for Offenders, which is hereby created.~~

~~2. Money in the Account may be used:~~

~~(a) To defray the costs of maintaining the Office of the Ombudsman; or~~

~~(b) For any other purpose authorized by the Legislature.~~

~~3. All claims against the Account must be paid as other claims against the State are paid.] (Deleted by amendment.)~~

Sec. 11. ~~[All gifts and grants of money which the Ombudsman is authorized to accept must be deposited with the State Treasurer for credit to the Account for the Ombudsman for Offenders.] (Deleted by amendment.)~~

Sec. 12. **Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The [Ombudsman shall, by regulation.] Attorney General may establish [procedures] a program for [receiving, processing and reporting] mediating complaints from [a Legislator,] an offender [or a family member of an offender and for processing and reporting allegations personally known to the Ombudsman] concerning:

[1.] (a) An administrative act which is alleged to be contrary to law or a policy of the Department; or

[2.] (b) Significant issues relating to the health or safety of offenders and other matters for which there is no effective administrative remedy.

2. If the Attorney General establishes a program for mediating complaints pursuant to subsection 1, the Attorney General shall:

(a) By regulation, establish procedures for mediating complaints by offenders; and

(b) Prepare and submit to the Board an annual report on:

(1) The complaints mediated through the program;

(2) The total dollar amount of claims asserted in complaints mediated through the program;

(3) The number of complaints that were resolved through the program;

(4) The cost in dollars paid to offenders to resolve complaints through the program; and

(5) The savings in dollars between the dollar amount of claims asserted in complaints and the cost in dollars paid to offenders to resolve those complaints.

3. As used in this section, "administrative act" includes an action, omission, decision, recommendation, practice or other procedure of the Department.

Sec. 13. ~~[1. The Ombudsman shall advise a complainant to pursue all administrative remedies that are available to the complainant. The Ombudsman may request and shall receive from the Department a progress report concerning the administrative processing of a complaint. After the Department has taken administrative action on a complaint, the Ombudsman may process and report a complaint on the request of a complainant or on his or her own initiative.~~

~~2. The Ombudsman is not required to process or report a complaint brought before the Ombudsman. A person is not entitled as a right to have his or her complaint processed or reported by the Ombudsman.] (Deleted by amendment.)~~

Sec. 14. ~~[After the Ombudsman receives a complaint from a Legislator, an offender or a family member of an offender as described in section 12 of this act and decides to process the complaint, the Ombudsman shall notify the complainant, the offender or offenders affected and the Department. If the Ombudsman declines to process the complaint, the Ombudsman shall notify the complainant in writing and inform the offender or offenders affected of the reasons for the Ombudsman's decision.] (Deleted by amendment.)~~

Sec. 15. ~~[1. Correspondence between the Ombudsman and an offender is confidential and must be processed as privileged correspondence in the same manner as letters between offenders and courts, attorneys or public officials.~~

~~2. The Ombudsman shall keep confidential all matters relating to a complaint and the identities of the complainants or persons from whom information is acquired, except so far as disclosures may be necessary to enable the Ombudsman to perform the duties of the office and to support any recommendations resulting from the processing of a complaint.~~

~~3. A report prepared and recommendations made by the Ombudsman and submitted pursuant to section 16 of this act are exempt from disclosure under chapter 239 of NRS.] (Deleted by amendment.)~~

Sec. 16. ~~[1. For each regular session of the Legislature, the Ombudsman shall prepare a report on:~~

- ~~(a) The conduct of the Office of the Ombudsman for Offenders;~~
- ~~(b) Complaints processed by the Ombudsman; and~~
- ~~(c) Findings resulting from those complaints if the Ombudsman finds:~~
 - ~~(1) A matter that should be considered by the Department;~~
 - ~~(2) An administrative act that should be modified or cancelled;~~
 - ~~(3) A statute or regulation that should be altered;~~
 - ~~(4) An administrative act for which justification is necessary;~~
 - ~~(5) Significant issues relating to the health or safety of offenders; or~~
 - ~~(6) Any other significant concerns as set forth by regulation.~~

~~2. The report must be submitted not later than September 1 of each even-numbered year to the Department and the Director of the Legislative Counsel Bureau for distribution to the Legislature and the Advisory Commission on the Administration of Justice.~~

~~3. Subject to section 17 of this act, the Legislature may forward all or part of a report prepared and submitted pursuant to this section to the complainant or the offender or offenders affected.]~~ **(Deleted by amendment.)**

~~Sec. 17. [1. Before publishing a finding or recommendation that expressly or by implication criticizes a person or the Department, the Ombudsman must consult with that person or the Department.~~

~~2. When publishing a finding adverse to the Department or any person, the Ombudsman shall include in that publication a statement of reasonable length made to the Ombudsman by the Department or person in defense or mitigation of the action, if that statement is provided within a reasonable period of time as specified by regulation.~~

~~3. The Ombudsman may request to be notified by the Department, within a specified period of time, of any action taken on a recommendation.~~

~~4. The Ombudsman shall notify a complainant of actions relating to the complaint taken by the Office of the Ombudsman and the Department.]~~ **(Deleted by amendment.)**

~~Sec. 18. [1. An offender must not be penalized in any way by an official or the Department for filing a complaint, complaining to a Legislator or cooperating with the Ombudsman in researching a complaint.~~

~~2. A person or the Department shall not:~~

~~(a) Hinder the lawful actions of the Ombudsman or employees of the Office of the Ombudsman; or~~

~~(b) Willfully refuse to comply with lawful demands of the Office.]~~ **(Deleted by amendment.)**

~~Sec. 19. [The authority granted the Ombudsman pursuant to sections 2 to 19, inclusive, of this act:~~

~~1. Is in addition to the authority granted under:~~

~~(a) The provisions of any other act or rule under which the remedy or right of appeal or objection is provided for a person; or~~

~~(b) Any procedure provided for the inquiry into or investigation of any other matter.~~

~~2. Shall not be:~~

~~(a) Construed to limit or affect the remedy or right of appeal or objection;~~

~~or~~

~~(b) Deemed part of an exclusionary process.] (Deleted by amendment.)~~

Sec. 20. [NRS 209.131 is hereby amended to read as follows:

~~209.131 The Director shall:~~

~~1. Administer the Department under the direction of the Board.~~

~~2. Supervise the administration of all institutions and facilities of the Department.~~

~~3. Receive, retain and release, in accordance with law, offenders sentenced to imprisonment in the state prison.~~

~~4. Be responsible for the supervision, custody, treatment, care, security and discipline of all offenders under his or her jurisdiction.~~

~~5. Ensure that any person employed by the Department whose primary responsibilities are:~~

~~(a) The supervision, custody, security, discipline, safety and transportation of an offender;~~

~~(b) The security and safety of the staff; and~~

~~(c) The security and safety of an institution or facility of the Department, is a correctional officer who has the powers of a peace officer pursuant to subsection 1 of NRS 289.220.~~

~~6. Establish regulations with the approval of the Board and enforce all laws governing the administration of the Department and the custody, care and training of offenders.~~

~~7. Take proper measures to protect the health and safety of the staff and offenders in the institutions and facilities of the Department [.] , including, without limitation, establishing regulations, with the approval of the Board, which comply with standards set by the National Commission on Correctional Health Care to govern staff training in medical emergency response and reporting.~~

~~8. Cause to be placed from time to time in conspicuous places about each institution and facility copies of laws and regulations relating to visits and correspondence between offenders and others.~~

~~9. Provide for the holding of religious services in the institutions and facilities and make available to the offenders copies of appropriate religious materials.] (Deleted by amendment.)~~

Sec. 21. [NRS 209.381 is hereby amended to read as follows:

~~209.381 1. Each offender in an institution or facility of the Department must be provided a healthful diet and appropriate, sanitary housing.~~

~~2. The Director with the approval of the Board shall establish standards which comply with standards set by the National Commission on Correctional Health Care for personal hygiene of offenders and for the medical and dental services of each institution or facility.] (Deleted by amendment.)~~

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 232 to Senate Bill No. 201 replaces the original bill that would have created an Ombudsman and instead authorizes the Attorney General to establish a program to mediate certain complaints from offenders. Such complaints are limited to those regarding an administrative act alleged to be contrary to law or policy of the Department of Corrections, or significant issues concerning the health and safety of offenders and other matters for which there is no effective administrative remedy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 218.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 183.

"SUMMARY—Revises provisions governing the regulation of gaming. (BDR 41-991)"

"AN ACT relating to gaming; authorizing the Nevada Gaming Commission to provide by regulation for the operation of hosting centers and service providers; revising provisions relating to the transfer of certain ownership interests in a gaming operation; revising provisions relating to the licensing of persons who hold an ownership interest in certain business entities which hold a gaming license; authorizing the State Gaming Control Board to take certain actions regarding its operations without the approval of the Commission; making various other changes relating to the regulation of gaming; **prohibiting certain actions relating to gaming; providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada Gaming Commission and the State Gaming Control Board are required to administer state gaming licenses and manufacturers', sellers' and distributors' licenses, and to perform various acts relating to the regulation and control of gaming. (NRS 463.140) **Section 2** of this bill authorizes the Commission to provide by regulation for the operation and registration of hosting centers, which will serve as centers for the operation of certain gaming systems. **Section 3** of this bill authorizes the Commission to provide by regulation for the licensing of service providers, who will ~~assist licensed gaming establishments in providing services to the public with regard to the conduct and exposure of certain games.~~ **generally: (1) perform certain services on behalf of another licensed person who conducts nonrestricted gaming operations or an establishment licensed to operate interactive gaming; or (2) provide services or devices which patrons of licensed establishments use to obtain cash or wagering instruments.**

Existing law also provides that if the Commission approves the issuance of a license for gaming operations at the same location, or locations if the

license is for the operation of a slot machine route, for the purposes of certain taxes or fees, the gaming license shall be deemed transferred within 30 days following certain changes in the business entity, and the previously licensed operation shall be deemed a continuing operation. (NRS 463.386) **Section 7** of this bill removes the requirement that certain changes in the business entity must occur before the license may be deemed transferred, and instead provides that if the Commission approves such an issuance of a license, the Chair of the Board, in consultation with the Chair of the Commission, may administratively determine that the gaming license is transferred and the newly licensed operation is a continuing operation.

Additionally, existing law requires every limited partner of a limited partnership and every member of a limited-liability company that holds a state gaming license to be licensed individually. (NRS 463.569, 463.5735) **Sections 8 and 9** of this bill revise this requirement. **Section 8** provides that: (1) only limited partners with more than a 5 percent ownership interest in a limited partnership must be licensed individually; and (2) a limited partner generally must register with the Board if such a limited partner holds a 5 percent or less ownership interest in a limited partnership and holds or applies for a state gaming license. **Section 9** applies such requirements to members of a limited-liability company.

Existing law further provides that it is unlawful for a person at a licensed gaming establishment to use or possess with the intent to use a device to assist in projecting the outcome of a game, keeping track of cards played, analyzing the probability of the occurrence of an event relating to a game or analyzing the strategy for playing or betting to be used in a game. (NRS 465.075) **A person who performs or attempts to perform any such actions is guilty of a category B felony. (NRS 465.088)** **Section 12** of this bill describes in more detail the types of devices that are unlawful, and provides that it is also unlawful to assist another person in using or possessing with the intent to use any such device. **Section 12** also specifies that the use of any such device is only unlawful when such use provides an advantage to a person participating in or operating a game.

Existing law also provides that it is unlawful for a person to perform certain actions relating to gaming without having first procured, and thereafter maintaining, all required gaming licenses. (NRS 463.160) **A person who willfully violates, attempts to violate, or conspires to violate such provisions of law is, with certain exceptions, guilty of a category B felony. (NRS 463.360)** **Section 5.5** of this bill additionally provides that it is unlawful for a person to operate as a cash access and wagering service provider without having procured and maintained all required gaming licenses.

Finally, existing law authorizes the Commission to adopt regulations governing the licensing and operation of interactive gaming and requires that any such regulations include certain provisions. (NRS 463.750) **Section 11.5** of this bill additionally requires that any such regulations

must: (1) establish the investigation fees for a license for a service provider to perform certain actions on behalf of an establishment licensed to operate interactive gaming; (2) provide that a person hold a license for a service provider in order to perform such actions; (3) set forth standards for the suitability of a person to be licensed as a service provider; and (4) set forth provisions governing the licensing requirements for a service provider and certain fees that a service provider may be required to pay.

Section 4 of this bill authorizes the Board to take certain actions without the approval of the Commission with regard to: (1) certain operational activities and functions of the Board; and (2) establishing a plan by regulation concerning certain personnel provisions. **Section 5** of this bill requires the Commission to post a notice on its website regarding any meeting at which the adoption, amendment or repeal of a regulation is considered, and **section 6** of this bill removes the provision from existing law which requires the Chair of the Board to present a claim to the State Board of Examiners after an expenditure of money from the State Gaming Control Board Revolving Account. **Sections 10 and 11** of this bill revise provisions concerning certain documents of a publicly traded corporation that holds a gaming license with which the Commission must be provided a copy under existing law.

~~{Section 13 of this bill clarifies existing law and specifies that service charges which are collected and obtained by certain third parties are subject to the tax on live entertainment. This provision applies retroactively from January 1, 2004, the date on which the imposition of the tax on live entertainment became effective.}~~ **Section 14** of this bill repeals provisions relating to the Account for Investigating Cash Transactions of Gaming Licensees.

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 the provisions set forth as sections **1.5**, **2** and **3** of this act.

Sec. 1.5. "Cash access and wagering instrument service provider" means a provider of services or devices for use by patrons of licensed gaming establishments to obtain cash or wagering instruments through a variety of automated methods, including, without limitation:

- 1. Wagering instrument issuance and redemption kiosks; or**
- 2. Money transfers through mobile or Internet services.**

Sec. 2. 1. The Legislature finds that:

(a) To protect and promote the health, safety, morals, good order and general welfare of the inhabitants of this State, and to carry out the public policy declared in NRS 463.0129, it is necessary that the Board and Commission be allowed to react to rapidly evolving technological advances while maintaining strict regulation and control of gaming.

(b) Technological advances have evolved which allow certain parts of games, gaming devices, cashless wagering systems and race book and sports pool operations to be conducted at locations that are not on the premises of a licensed gaming establishment.

2. Except as otherwise provided in subsection 3, the Commission may, with the advice and assistance of the Board, provide by regulation for the operation and registration of hosting centers and persons associated therewith. Such regulations may include:

(a) Provisions relating to the operation and location of hosting centers, including, without limitation, minimum internal and operational control standards established by the Commission.

(b) Provisions relating to the registration of persons owning or operating a hosting center and any persons having a significant involvement with a hosting center, as determined by the Commission.

(c) A provision that a person owning, operating or having a significant involvement with a hosting center may be required by the Commission to be found suitable to be associated with licensed gaming, including race book or sports pool operations.

(d) Additional matters which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129.

3. The Commission may not adopt regulations pursuant to this section until the Commission first determines that hosting centers are secure and reliable, do not pose a threat to the integrity of gaming and are consistent with the public policy of this State pursuant to NRS 463.0129.

4. Regulations adopted by the Commission pursuant to this section must:

(a) Define "hosting center."

(b) Provide that the premises on which the hosting center is located is subject to the power and authority of the Board and Commission pursuant to NRS 463.140, as though the premises is where gaming is conducted and the hosting center is a gaming licensee.

Sec. 3. 1. The Legislature finds that:

(a) Technological advances have evolved which allow licensed gaming establishments to expose games, including, without limitation, system-based and system-supported games, gaming devices, mobile gaming systems, interactive gaming, cashless wagering systems or race books and sports pools, and to be assisted by a service provider who provides important services to the public with regard to the conduct and exposure of such games.

(b) To protect and promote the health, safety, morals, good order and general welfare of the inhabitants of this State, and to carry out the public policy declared in NRS 463.0129, it is necessary that the Board and Commission have the ability to license service providers by maintaining

strict regulation and control of the operation of such service providers and all persons and locations associated therewith.

2. Except as otherwise provided in subsection 3, the Commission may, with the advice and assistance of the Board, provide by regulation for the licensing and operation of a service provider and all persons, locations and matters associated therewith. Such regulations may include, without limitation:

(a) Provisions requiring the service provider to meet the qualifications for licensing pursuant to NRS 463.170, in addition to any other qualifications established by the Commission, and to be licensed regardless of whether the service provider holds any other license.

(b) Criteria regarding the location from which the service provider conducts its operations, including, without limitation, minimum internal and operational control standards established by the Commission.

(c) Provisions relating to the licensing of persons owning or operating a service provider, and any persons having a significant involvement therewith, as determined by the Commission.

(d) A provision that a person owning, operating or having significant involvement with a service provider, as determined by the Commission, may be required by the Commission to be found suitable to be associated with licensed gaming, including race book or sports pool operations.

(e) Additional matters which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129, including that a service provider must be liable to the licensee on whose behalf the services are provided for the service provider's proportionate share of the fees and taxes paid by the licensee.

3. The Commission may not adopt regulations pursuant to this section until the Commission first determines that service providers are secure and reliable, do not pose a threat to the integrity of gaming and are consistent with the public policy of this State pursuant to NRS 463.0129.

4. Regulations adopted by the Commission pursuant to this section must provide that the premises on which a service provider conducts its operations is subject to the power and authority of the Board and Commission pursuant to NRS 463.140, as though the premises is where gaming is conducted and the service provider is a gaming licensee.

5. As used in this section ~~["service"]~~ :

(a) "Interactive gaming service provider" means a person who acts on behalf of an establishment licensed to operate interactive gaming and;

(1) Manages, administers or controls wagers that are initiated, received or made on an interactive gaming system;

(2) Manages, administers or controls the games with which wagers that are initiated, received or made on an interactive gaming system are associated;

(3) Maintains or operates the software or hardware of an interactive gaming system;

(4) Provides the trademarks, trade names, service marks or similar intellectual property under which an establishment licensed to operate interactive gaming identifies its interactive gaming system to patrons;

(5) Provides information regarding persons to an establishment licensed to operate interactive gaming via a database or customer list; or

(6) Provides products, services, information or assets to an establishment licensed to operate interactive gaming and receives therefor a percentage of gaming revenue from the establishment's interactive gaming system.

(b) "Service provider" means a person who:

~~[(a)]~~ (1) Acts on behalf of another licensed person who conducts nonrestricted gaming operations, and who assists, manages, administers or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a licensed person ~~+~~

~~(b) Is~~ , and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment; ~~and~~

~~(c)]~~ (2) Is an interactive gaming service provider;

(3) Is a cash access and wagering instrument service provider; or

(4) Meets such other or additional criteria as the Commission may establish by regulation.

Sec. 3.5. NRS 463.013 is hereby amended to read as follows:

463.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 463.0133 to 463.01967, inclusive, **and section 1.5 of this act** have the meanings ascribed to them in those sections.

Sec. 4. NRS 463.080 is hereby amended to read as follows:

463.080 1. The Board ~~[with the approval of the Commission,]~~ may:

(a) Establish, and from time to time alter, such a plan of organization as it may deem expedient.

(b) Acquire such furnishings, equipment, supplies, stationery, books, motor vehicles and other things as it may deem necessary or desirable in carrying out its functions.

(c) Incur such other expenses, within the limit of money available to it, as it may deem necessary.

2. Except as otherwise provided in this chapter, all costs of administration incurred by the Board must be paid out on claims from the State General Fund in the same manner as other claims against the State are paid.

3. The Board shall, within the limits of legislative appropriations or authorizations, employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Board and Commission may require.

4. The members of the Board and all the personnel of the Board, except clerical employees and employees described in NRS 284.148, are exempt from the provisions of chapter 284 of NRS. They are entitled to such leaves of absence as the Board prescribes, but such leaves must not be of lesser duration than those provided for other state employees pursuant to chapter 284 of NRS. Employees described in NRS 284.148 are subject to the limitations specified in that section.

5. Clerical employees of the Board are in the classified service but are exempt from the provisions of chapter 284 of NRS for purposes of removal. They are entitled to receive an annual salary which must be fixed in accordance with the pay plan adopted under the provisions of that chapter.

6. The Board ~~{and the Commission}~~ shall ~~{by suitable regulations,}~~ establish , **and modify as necessary**, a comprehensive plan governing employment, job classifications and performance standards, and retention or discharge of employees to assure that termination or other adverse action is not taken against such employees except for cause. The ~~{regulations}~~ **plan** must include provisions for hearings in personnel matters and for review of adverse actions taken in those matters.

Sec. 5. NRS 463.145 is hereby amended to read as follows:

463.145 1. Except as otherwise provided in NRS 368A.140, the Commission shall, pursuant to NRS 463.150, adopt, amend and repeal regulations in accordance with the following procedures:

(a) At least 30 days before ~~{the initial}~~ a meeting of the Commission ~~{and 20 days before any subsequent meeting}~~ at which the adoption, amendment or repeal of a regulation is considered, notice of the proposed action must be:

(1) ~~{Published in such newspaper as the Commission prescribes;}~~
Posted on the Commission's Internet website;

(2) Mailed to every person who has filed a request therefor with the Commission; and

(3) When the Commission deems advisable, mailed to any person whom the Commission believes would be interested in the proposed action, and published in such additional form and manner as the Commission prescribes.

(b) The notice of proposed adoption, amendment or repeal must include:

(1) A statement of the time, place and nature of the proceedings for adoption, amendment or repeal;

(2) Reference to the authority under which the action is proposed; and

(3) Either the express terms or an informative summary of the proposed action.

(c) On the date and at the time and place designated in the notice, the Commission shall afford any interested person or his or her authorized representative, or both, the opportunity to present statements, arguments or contentions in writing, with or without opportunity to present them orally. The Commission shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

(d) Any interested person may file a petition with the Commission requesting the adoption, amendment or repeal of a regulation. The petition must state, clearly and concisely:

(1) The substance or nature of the regulation, amendment or repeal requested;

(2) The reasons for the request; and

(3) Reference to the authority of the Commission to take the action requested.

➤ Upon receipt of the petition, the Commission shall within 45 days deny the request in writing or schedule the matter for action pursuant to this subsection.

(e) In emergencies, the Commission may summarily adopt, amend or repeal any regulation if at the same time it files a finding that such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare, together with a statement of the facts constituting the emergency.

2. In any hearing held pursuant to this section, the Commission or its authorized representative may administer oaths or affirmations, and may continue or postpone the hearing from time to time and at such places as it prescribes.

3. The Commission may request the advice and assistance of the Board in carrying out the provisions of this section.

Sec. 5.5. NRS 463.160 is hereby amended to read as follows:

463.160 1. Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Nevada any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool;

(b) To provide or maintain any information service;

(c) To operate a gaming salon; ~~for~~

(d) To 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. ~~It is~~ **or**

(e) To operate as a cash access and wagering instrument service provider.

➤ without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses as required by statute, regulation or ordinance or by the governing board of any unincorporated town.

2. The licensure of an operator of an inter-casino linked system is not required if:

(a) A gaming licensee is operating an inter-casino linked system on the premises of an affiliated licensee; or

(b) An operator of a slot machine route is operating an inter-casino linked system consisting of slot machines only.

3. Except as otherwise provided in subsection 4, it is unlawful for any person knowingly to permit any gambling game, slot machine, gaming device, inter-casino linked system, mobile gaming system, race book or sports pool to be conducted, operated, dealt or carried on in any house or building or other premises owned by the person, in whole or in part, by a person who is not licensed pursuant to this chapter, or that person's employee.

4. The Commission may, by regulation, authorize a person to own or lease gaming devices for the limited purpose of display or use in the person's private residence without procuring a state gaming license.

5. As used in this section, "affiliated licensee" has the meaning ascribed to it in NRS 463.430.

Sec. 6. NRS 463.330 is hereby amended to read as follows:

463.330 1. Costs of administration of this chapter incurred by the Commission and the State Gaming Control Board must be paid from the State General Fund on claims presented by the Commission and the Board, respectively, and approved and paid as other claims against the State are paid. The Commission and the Board shall comply with the provisions of the State Budget Act in order that legislative authorization for budgeted expenditures may be provided.

2. In order to facilitate the confidential investigation of violations of this chapter and the regulations adopted by the Commission pursuant to this chapter, there is hereby created the State Gaming Control Board Revolving Account. Upon the written request of the Chair of the Board, the State Controller shall draw a warrant in favor of the Chair in the amount of \$10,000, and upon presentation of the warrant to the State Treasurer, the State Treasurer shall pay it. When the warrant is paid, the Chair shall deposit the \$10,000 in a bank or credit union of reputable standing which shall secure the deposit with a depository bond satisfactory to the State Board of Examiners.

3. The Chair of the Board may use the Revolving Account to pay the reasonable expenses of agents and employees of the Board engaged in confidential investigations concerning the enforcement of this chapter, including the prepayment of expenses where necessary, whether such expenses are incurred for investigation of known or suspected violations. In allowing such expenses, the Chair is not limited or bound by the provisions of NRS 281.160.

4. ~~{After the expenditure of money from the Revolving Account, the Chair of the Board shall present a claim to the State Board of Examiners for the amount of the expenditure to be replaced in the Revolving Account. The claim must be allowed and paid as are other claims against the State, but the claim must not detail the investigation made as to the agent or employee making the investigation or the person or persons investigated. If the State~~

Board of Examiners is not satisfied with the claim, the members thereof may orally examine the Chair concerning the claim.

~~5-}~~ Expenditures from the Revolving Account may not exceed the amount authorized by the Legislature in any fiscal year.

Sec. 7. NRS 463.386 is hereby amended to read as follows:

463.386 1. If the Commission approves the issuance of a license for gaming operations at the same location ~~{-}~~ ***that is currently licensed***, or locations ***that are currently licensed*** if the license is for the operation of a slot machine route, ~~{within 30 days following a change described in subsection 2,}~~ ***the Chair of the Board, in consultation with the Chair of the Commission, may administratively determine that,*** for the purposes of NRS 463.370 and 463.373 to 463.3855, inclusive, the gaming license shall be deemed transferred, ~~{and}~~ the previously licensed operation shall be deemed a continuing operation ~~{-}~~ ***and credit must be granted for prepaid license fees, if the Chair of the Board makes a written finding that such determination is consistent with the public policy of this State pursuant to NRS 463.0129.***

2. ~~{Credit must be granted for prepaid license fees as described in subsection 1 if:~~

(a) ~~The securities of a corporate gaming licensee are or become publicly held or publicly traded and the gaming operations of that corporation are transferred to a wholly owned subsidiary corporation;~~

(b) ~~A corporate gaming licensee is merged with another corporation which is the surviving entity and at least 80 percent of the surviving entity is owned by shareholders of the former licensee;~~

(c) ~~A corporate gaming licensee is dissolved, and the parent corporation of the dissolved corporation or a subsidiary corporation of the parent corporation, at least 80 percent of which is owned by the parent corporation, becomes the gaming licensee;~~

(d) ~~A corporate gaming licensee or a gaming licensee which is a partnership or limited partnership is reorganized pursuant to a plan of reorganization approved by the Commission, and a limited partnership or limited liability company is the surviving entity;~~

(e) ~~The assets of a gaming licensee who is a sole proprietorship are transferred to:~~

(1) ~~A corporation and at least 80 percent of the stock of the corporation is held by the former sole proprietor; or~~

(2) ~~A limited liability company and at least 80 percent of the interests in the limited liability company are held by the former sole proprietor;~~

(f) ~~A corporate gaming licensee is dissolved and the assets of the gaming establishment are transferred to:~~

(1) ~~A sole proprietorship in which the sole proprietor owned at least 80 percent of the stock of the former corporation; or~~

~~(2) A limited liability company in which at least 80 percent of the interests are owned by a person who owned at least 80 percent of the stock of the former corporation;~~

~~(g) A licensed gaming partnership or limited partnership is dissolved and the assets of the gaming establishment are transferred to a sole proprietorship in which the sole proprietor owned at least 80 percent of the former partnership or limited partnership interests;~~

~~(h) The assets of a gaming licensee who is a sole proprietorship are transferred to a partnership or limited partnership in which at least 80 percent of the ownership of the partnership or limited partnership interests are held by the former sole proprietor;~~

~~(i) A licensed gaming partnership, limited partnership or limited liability company is dissolved and the assets of the gaming establishment are transferred to a corporation, at least 80 percent of the stock of which is held by persons who held interests in the former partnership, limited partnership or limited liability company;~~

~~(j) A licensed gaming partnership or limited partnership is dissolved or reorganized and the assets of the gaming establishment are transferred to a partnership, limited partnership or limited liability company, at least 80 percent of the ownership of which is held by the former partnership interests; or~~

~~(k) A trustee, receiver, assignee for the benefit of a creditor or a fiduciary is approved to continue the operation of a licensed establishment and the Commission deems the operation to continue pursuant to the existing license of the establishment.~~

3-1 The Chair of the Board may refer a request for administrative determination pursuant to this section to the Board and the Commission for consideration, or may deny the request for any reasonable cause. A denial may be submitted for review by the Board and the Commission in the manner set forth by the regulations adopted by the Commission which pertain to the review of administrative approval decisions.

3. Except as otherwise provided in this section, no credit or refund of fees or taxes may be made because a gaming establishment ceases operation.

4. The Commission may, with the advice and assistance of the Board, adopt regulations consistent with the policy, objects and purposes of this chapter as it may deem necessary to carry out the provisions of this section.

Sec. 8. NRS 463.569 is hereby amended to read as follows:

463.569 1. Every general partner *of*, and *every* limited partner ~~to~~ *with more than a 5 percent ownership interest in*, a limited partnership which holds a state gaming license must be licensed individually, according to the provisions of this chapter, and if, in the judgment of the Commission, the public interest will be served by requiring *any other limited partners* or any or all of the limited partnership's lenders, holders of evidence of indebtedness, underwriters, key executives, agents or employees to be

licensed, the limited partnership shall require those persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires the licensing. Publicly traded corporations which are limited partners of limited partnerships are not required to be licensed, but shall comply with NRS 463.635 to 463.645, inclusive. A person who is required to be licensed by this section as a general or limited partner shall not receive that position until the person secures the required approval of the Commission. A person who is required to be licensed pursuant to a decision of the Commission shall apply for a license within 30 days after the Commission requests the person to do so.

2. All limited partners holding a 5 percent or less ownership interest in a limited partnership, other than a publicly traded limited partnership, which hold or apply for a state gaming license, must register in that capacity with the Board and submit to the Board's jurisdiction. Such registration must be made on forms prescribed by the Chair of the Board. The Chair of the Board may require a registrant to apply for licensure at any time in the Chair's discretion. A person who is required to be registered by this section shall apply for registration within 30 days after the person becomes a limited partner holding a 5 percent or less ownership interest in a limited partnership.

3. The Commission may, with the advice and assistance of the Board, adopt such regulations as it deems necessary to carry out the provisions of subsection 2.

Sec. 9. NRS 463.5735 is hereby amended to read as follows:

463.5735 1. Every member ~~of~~ **and** transferee of a member's interest **with more than a 5 percent ownership interest** in a limited-liability company, **and every** director and manager of a limited-liability company which holds or applies for a state gaming license, must be licensed individually ~~of~~ according to the provisions of this chapter.

2. All members holding a 5 percent or less ownership interest in a limited-liability company, other than a publicly traded limited-liability company, which hold or apply for a state gaming license, must register in that capacity with the Board and submit to the Board's jurisdiction. Such registration must be made on forms prescribed by the Chair of the Board. The Chair of the Board may require a registrant to apply for licensure at any time in the Chair's discretion. A person who is required to be registered by this section shall apply for registration within 30 days after the person becomes a member holding a 5 percent or less ownership interest in a limited-liability company.

3. If, in the judgment of the Commission, the public interest will be served by requiring any members with a 5 percent or less ownership interest in a limited-liability company, or any of the limited-liability company's lenders, holders of evidence of indebtedness, underwriters, key executives, agents or employees to be licensed:

(a) The limited-liability company shall require those persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires the licensing; and

(b) Those persons shall apply for a license within 30 days after being requested to do so by the Commission.

~~{3-}~~ **4.** A publicly traded corporation which is a member of a limited-liability company is not required to be licensed, but shall comply with NRS 463.635 to 463.645, inclusive.

~~{4-}~~ **5.** No person may become a member or a transferee of a member's interest in a limited-liability company which holds a license until the person secures the required approval of the Commission.

~~{5-}~~ **6.** A director or manager of a limited-liability company shall apply for a license within 30 days after assuming office.

7. *The Commission may, with the advice and assistance of the Board, adopt such regulations as it deems necessary to carry out the provisions of subsection 2.*

Sec. 10. NRS 463.639 is hereby amended to read as follows:

463.639 1. Except as otherwise provided in subsection 2, after a publicly traded corporation has registered pursuant to this chapter, and while the publicly traded corporation or any of its affiliated or intermediary companies holds a gaming license, the publicly traded corporation shall:

(a) Report promptly to the Commission in writing any change in its officers, directors or employees who are actively and directly engaged in the administration or supervision of the gaming activities of the corporation or any of its affiliated or intermediary companies.

(b) Each year furnish to the Commission a profit and loss statement and a balance sheet of the publicly traded corporation as of the end of the year, and, upon request of the Commission therefor, a copy of the publicly traded corporation's federal income tax return within 30 days after the return is filed with the Federal Government. All profit and loss statements and balance sheets must be submitted within 120 days after the close of the fiscal year to which they relate, and may be those filed by the publicly traded corporation with or furnished by it to the Securities and Exchange Commission.

(c) ~~{Mail}~~ ***Upon request of the Chair of the Board, mail*** to the Commission a copy of any statement, or amendment thereto, received from a stockholder or group of stockholders pursuant to section 13(d) of the Securities Exchange Act of 1934, as amended, within 10 days after receiving the statement or amendment thereto, and report promptly to the Commission in writing any changes in ownership of record of its equity securities which indicate that any person has become the owner of record of more than 10 percent of its outstanding equity securities of any class.

(d) Upon request of the ~~{Commission,}~~ ***Chair of the Board,*** furnish to ~~{it}~~ ***the Commission*** a copy of any document filed by the publicly traded corporation with the Securities and Exchange Commission or with any national or regional securities exchange, including documents considered to

be confidential in nature, or any document furnished by it to any of its equity security holders of any class.

2. A publicly traded corporation which was created under the laws of a foreign country shall, instead of complying with subsection 1:

(a) Each year furnish to the Commission a profit and loss statement and a balance sheet of the publicly traded corporation as of the end of the year, and, upon request of the Commission therefor, a copy of the publicly traded corporation's federal income tax return within 30 days after the return is filed with the Federal Government. All profit and loss statements and balance sheets must be submitted within 120 days after the close of the fiscal year to which they relate, and may be those filed by the publicly traded corporation with or furnished by it to the foreign governmental agency that regulates the sale of its securities.

(b) ~~{Mail}~~ *Upon request of the Chair of the Board, mail* to the Commission a copy of any statement, or amendment thereto, received from a stockholder or group of stockholders pursuant to law, within 10 days after receiving the statement or amendment thereto, and report promptly to the Commission in writing any changes in ownership of record of its equity securities which indicate that any person has become the owner of record of more than 10 percent of its outstanding equity securities of any class.

(c) Upon request of the ~~{Commission,}~~ *Chair of the Board, furnish to {it} the Commission* a copy of any document filed by the publicly traded corporation with the foreign governmental agency that regulates the sale of its securities or with any national or regional securities exchange, including documents considered to be confidential in nature, or any document furnished by it to any of its equity security holders of any class.

Sec. 11. NRS 463.643 is hereby amended to read as follows:

463.643 1. Each person who acquires, directly or indirectly:

(a) Beneficial ownership of any voting security; or

(b) Beneficial or record ownership of any nonvoting security,

↪ in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that the person's acquisition of that ownership would otherwise be inconsistent with the declared policy of this state.

2. Each person who acquires, directly or indirectly, beneficial or record ownership of any debt security in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that the person's acquisition of the debt security would otherwise be inconsistent with the declared policy of this state.

3. Each person who, individually or in association with others, acquires, directly or indirectly, beneficial ownership of more than 5 percent of any class of voting securities of a publicly traded corporation registered with the Nevada Gaming Commission, and who is required to report, or voluntarily reports, the acquisition to the Securities and Exchange Commission pursuant

to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall , ~~{file a copy of that report, and any amendments thereto, with the Nevada Gaming Commission}~~ within 10 days after filing ~~{that}~~ ***the report and any amendment thereto*** with the Securities and Exchange Commission ~~{}~~ , ***notify the Nevada Gaming Commission in the manner prescribed by the Chair of the Board that the report has been filed with the Securities and Exchange Commission.***

4. Each person who, individually or in association with others, acquires, directly or indirectly, the beneficial ownership of more than 10 percent of any class of voting securities of a publicly traded corporation registered with the Commission, or who is required to report, or voluntarily reports, such acquisition pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall apply to the Commission for a finding of suitability within 30 days after the Chair of the Board mails the written notice.

5. A person who acquires, directly or indirectly:

(a) Beneficial ownership of any voting security; or

(b) Beneficial or record ownership of any nonvoting security or debt security,

➤ in a publicly traded corporation created under the laws of a foreign country which is registered with the Commission shall file such reports and is subject to such a finding of suitability as the Commission may prescribe.

6. Any person required by the Commission or by this section to be found suitable shall:

(a) Except as otherwise required in subsection 4, apply for a finding of suitability within 30 days after the Commission requests that the person do so; and

(b) Together with the application, deposit with the Board a sum of money which, in the opinion of the Board, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application, and deposit such additional sums as are required by the Board to pay final costs and charges.

7. Any person required by the Commission or this section to be found suitable who is found unsuitable by the Commission shall not hold directly or indirectly the:

(a) Beneficial ownership of any voting security; or

(b) Beneficial or record ownership of any nonvoting security or debt security,

➤ of a publicly traded corporation which is registered with the Commission beyond the time prescribed by the Commission.

8. The violation of subsection 6 or 7 is a gross misdemeanor.

9. As used in this section, "debt security" means any instrument generally recognized as a corporate security representing money owed and

reflected as debt on the financial statement of a publicly traded corporation, including, but not limited to, bonds, notes and debentures.

Sec. 11.5. NRS 463.750 is hereby amended to read as follows:

463.750 1. Except as otherwise provided in subsections 2 and 3, the Commission may, with the advice and assistance of the Board, adopt regulations governing the licensing and operation of interactive gaming.

2. The Commission may not adopt regulations governing the licensing and operation of interactive gaming until the Commission first determines that:

(a) Interactive gaming can be operated in compliance with all applicable laws;

(b) Interactive gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from jurisdictions where it is lawful to make such communications; and

(c) Such regulations are consistent with the public policy of the State to foster the stability and success of gaming.

3. The regulations adopted by the Commission pursuant to this section must:

(a) Establish the investigation fees for:

(1) A license to operate interactive gaming;

(2) A license for a manufacturer of interactive gaming systems; ~~and~~

(3) A license for a manufacturer of equipment associated with interactive gaming ~~;~~ **and**

(4) A license for a service provider to perform the actions described in paragraph (a) of subsection 5 of section 3 of this act.

(b) Provide that:

(1) A person must hold a license for a manufacturer of interactive gaming systems to supply or provide any interactive gaming system, including, without limitation, any piece of proprietary software or hardware; ~~and~~

(2) A person may be required by the Commission to hold a license for a manufacturer of equipment associated with interactive gaming ~~;~~ **and**

(3) A person must hold a license for a service provider to perform the actions described in paragraph (a) of subsection 5 of section 3 of this act.

(c) Set forth standards for the suitability of a person to be licensed as a manufacturer of interactive gaming systems ~~, for~~ **or a service provider as described in paragraph (b) of subsection 5 of section 3 of this act** that are as stringent as the standards for a nonrestricted license.

(d) **Set forth provisions governing:**

(1) The initial fee for a license for a service provider as described in paragraph (b) of subsection 5 of section 3 of this act.

(2) The fee for the renewal of such a license for such a service provider and any renewal requirements for such a license.

(3) Any portion of the license fee paid by a person licensed to operate interactive gaming, pursuant to subsection 1 of NRS 463.770, for which a service provider may be liable to the person licensed to operate interactive gaming.

(e) Provide that gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment.

~~##~~ **(f)** Set forth standards for the location and security of the computer system and for approval of hardware and software used in connection with interactive gaming.

~~##~~ **(g)** Define "equipment associated with interactive gaming," "interactive gaming system," "manufacturer of equipment associated with interactive gaming," "manufacturer of interactive gaming systems," "operate interactive gaming" and "proprietary hardware and software" as the terms are used in this chapter.

4. Except as otherwise provided in subsection 5, the Commission shall not approve a license for an establishment to operate interactive gaming unless:

(a) In a county whose population is 400,000 or more, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices.

(b) In a county whose population is more than 40,000 but less than 400,000, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Holds a nonrestricted license for the operation of games and gaming devices;

(2) Has more than 120 rooms available for sleeping accommodations in the same county;

(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

5. The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection 4; and

(2) The affiliate is located in the same county as the establishment; and

(b) Require an affiliate that receives a license pursuant to this subsection to comply with any applicable provision of this chapter.

6. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, to operate interactive gaming:

(a) Until the Commission adopts regulations pursuant to this section; and

(b) Unless the person first procures, and thereafter maintains in effect, all appropriate licenses as required by the regulations adopted by the Commission pursuant to this section.

7. A person who violates subsection 6 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years or by a fine of not more than \$50,000, or both.

Sec. 12. NRS 465.075 is hereby amended to read as follows:

465.075 **1.** It is unlawful for any person ~~{at a licensed gaming establishment}~~ to use, ~~{or}~~ possess with the intent to use ~~{,}~~ ***or assist another person in using or possessing with the intent to use any computerized, electronic, electrical or mechanical device {to assist:***

~~1. —In projecting}~~ ***which is designed, constructed, altered or programmed to obtain an advantage at playing any game in a licensed gaming establishment, including, without limitation, a device that:***

(a) Projects the outcome of the game;

~~{2. —In keeping}~~

(b) Keeps track of ~~{the}~~ cards played ~~{;~~

~~3. —In analyzing}~~ ***or cards prepared for play;***

(c) Analyzes the probability of the occurrence of an event relating to ~~{the}~~ a game; or

~~{4. —In analyzing}~~

(d) Analyzes the strategy for playing or betting to be used in the game,

↪ except as **may be made available as part of an approved game or otherwise** permitted by the Commission.

2. As used in this section, "advantage" means a benefit obtained by one or more participants in a game through information or knowledge that is not made available as part of the game as approved by the Board or Commission.

Sec. 13. ~~[NRS 368A.200 is hereby amended to read as follows:~~

~~368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of:~~

~~(a) Less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.~~

~~(b) At least 7,500 persons, the rate of the tax is 5 percent of the admission charge to the facility.~~

~~2. Amounts paid for:~~

~~(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section.~~

~~(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer, the operator of the entertainment facility or an affiliate of the taxpayer or the operator, are not taxable pursuant to this section. As used in this paragraph, "affiliate" has the meaning ascribed to it in NRS 463.0133.~~

~~3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.~~

~~4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.~~

~~5. The tax imposed by subsection 1 does not apply to:~~

~~(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.~~

~~(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS.~~

~~(c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.~~

~~(d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.~~

~~(e) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, if the~~

~~facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.~~

~~(f) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.~~

~~(g) Live entertainment that is provided at a trade show.~~

~~(h) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.~~

~~(i) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.~~

~~(j) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.~~

~~(k) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.~~

~~(l) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:~~

~~(1) Not the predominant element of the attraction; and~~

~~(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.~~

~~(m) Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.~~

~~(n) An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.~~

~~(o) Beginning July 1, 2007, race events scheduled at a race track in this State as a part of the National Association for Stock Car Auto Racing Nextel Cup Series, or its successor racing series, and all races associated therewith.~~

~~(p) Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional minor league baseball players at a stadium in this State.~~

~~(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.~~

~~6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (q) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from~~

~~the Chair of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.~~

~~7. As used in this section, "maximum occupancy" means, in the following order of priority:~~

~~(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;~~

~~(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or~~

~~(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.] (Deleted by amendment.)~~

Sec. 14. NRS 463.332 is hereby repealed.

Sec. 15. ~~[[.]] This [section and sections 1 to 12, inclusive, and 14 of this] act [become] becomes effective upon passage and approval.~~

~~† 2. Section 13 of this act becomes effective upon passage and approval and applies retroactively from January 1, 2004.]~~

TEXT OF REPEALED SECTION

463.332 Account for Investigating Cash Transactions of Gaming Licensees: Creation; use; claims.

1. The Account for Investigating Cash Transactions of Gaming Licensees is hereby created in the Investigative Fund. The Account is a continuing account and its money does not revert to the State General Fund at any time.

2. The money in the Account must be used by the Board to conduct undercover investigations related to alleged or suspected violations of regulations concerning cash transactions of gaming licensees.

3. Claims against the Account which are approved by the Board must be paid as other claims against the State are paid.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 183 adds definitions for an "interactive gaming service provider," and a "cash access and wagering instrument service provider," both of which will be regulated by the Nevada Gaming Commission. It also makes it unlawful for a person to operate as a cash access and wagering service provider without proper gaming licenses. It requires that regulations governing interactive gaming must include licensing for service providers based on certain standards and investigations, as well as necessary fees for those investigations. The amendment also deletes provisions for the live entertainment tax, which was moved to another bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 230.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 291.

"SUMMARY—~~[Prohibits the sale or provision of foods]~~ **Requires the boards of trustees of school districts and the governing bodies of charter schools to adopt a policy governing the use of foods and beverages** containing trans fats at public schools within this State. (BDR 34-666)"

"AN ACT relating to education; requiring the board of trustees of each school district and the governing body of each charter school to ~~ensure that~~ **adopt a policy governing the use of** foods **and beverages** containing trans fats ~~[are not sold, made available or used at the school or at a school within the district,]~~ **at public schools;** setting forth an exception for foods provided through certain programs of the Federal Government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth provisions relating to programs of nutrition and allows the board of trustees of each school district and the governing body of each charter school to operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction. (NRS 387.070-387.105) This bill ~~[prohibits]~~ **requires** the board of trustees of a school district and the governing body of a charter school ~~[from selling or serving at the public schools food or beverages that contain trans fats,]~~ **to adopt a policy which: (1) provides that no food or beverage containing trans fats may be purchased by the school district or charter school and provided to pupils; (2) provides that trans fats are not used in food preparation by the school district or charter school; and (3) includes guidelines for parents and guardians who wish to bring food and beverages to school for certain events.** The ~~[prohibition set forth in this bill]~~ **policy adopted by the board of trustees of the school district or governing body of the charter school** does not apply with respect to food made available pursuant to the federal School Breakfast Program or the National School Lunch Program. For the purposes of this bill, a food or beverage is deemed to contain trans fats if an ingredient thereof is vegetable shortening, margarine or partially hydrogenated vegetable oil, unless the manufacturer's label or the required nutrition labeling of the food or beverage, pursuant to applicable federal laws and regulations, states that the food or beverage contains zero grams of trans fat per serving.

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

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

*1. Except as otherwise provided in subsection 3, the board of trustees of each school district and the governing body of each charter school shall ~~ensure that~~ **adopt a policy which:***

(a) ~~[(No)]~~ Provides that no food or beverage containing industrially produced trans fats ~~is made available, caused to be made available or allowed to be made available~~ may be purchased by the school district or the charter school and provided to pupils of the charter school or school district, as applicable; ~~and~~

(b) ~~[(No)]~~ Provides that no industrially produced trans fats are used, caused to be used or allowed to be used in the preparation of any item of food by the school district or the charter school which is intended for pupils of the charter school or school district, as applicable ~~and~~; and

(c) Includes guidelines for parents and guardians and other persons who wish to bring food or beverages to a school for activities authorized by the school including, without limitation, back-to-school events and celebratory events.

2. Except as otherwise provided in subsection 3, the ~~prohibition set forth in~~ policy adopted pursuant to subsection 1 applies with respect to all food and beverages that are:

(a) Sold on school grounds during the regular school day or during an extended school day ~~[activities]~~ program or athletic event; and

(b) Served to pupils of ~~the~~ a charter school or school district, as applicable, ~~from any source,~~ including, without limitation, food and beverages from any program of nutrition, school store, vending machine, school cafeteria ~~and~~ and school food service establishment. ~~and fundraising activity, regardless of whether such activity is sponsored by a school.~~

3. The ~~provisions of this section do~~ policy adopted pursuant to subsection 1 does not apply with respect to food that is made available through:

(a) The School Breakfast Program, 42 U.S.C. §§ 1771 et seq.; or

(b) The National School Lunch Program, 42 U.S.C. §§ 1751 et seq.

4. For the purposes of this section, a food or beverage shall be deemed to contain industrially produced trans fat if one of the ingredients thereof is vegetable shortening, margarine or partially hydrogenated vegetable oil, unless the manufacturer's label or the required nutrition labeling of the food or beverage, pursuant to applicable federal laws and regulations, states that the food or beverage contains zero grams of trans fat per serving.

5. As used in this section:

(a) "Extended school day ~~[activity]~~ program" means ~~an activity]~~ a program that is sponsored by a school or school district and is carried out on school grounds before or after regular school hours ~~and~~ for the purpose of providing formal supervision to children, including, without limitation, ~~clubs, yearbook, band and choir practice, student government, drama,~~ programs for child care. ~~and~~ and ~~programs for the supervision of children] before or after school.~~ programs.

(b) "School food service establishment" means any establishment or other facility that:

(1) Is located on school grounds; and

(2) Regularly sells or serves meals or items of food to pupils.

Sec. 2. NRS 387.070 is hereby amended to read as follows:

387.070 As used in NRS 387.070 to 387.105, inclusive, ***and section 1 of this act***, "program of nutrition" means a program under which food is served to or nutritional education and assistance are provided for children and adults by any public school, private school or public or private institution on a nonprofit basis, including any such program for which assistance may be made available out of money appropriated by the Congress of the United States. The term includes, but is not limited to, a school lunch program.

Sec. 3. NRS 387.090 is hereby amended to read as follows:

387.090 The board of trustees of each school district and the governing body of each charter school may:

1. Operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction.

2. Use therefor money disbursed to them pursuant to the provisions of NRS 387.070 to 387.105, inclusive, ***and section 1 of this act***, gifts, donations and other money received from the sale of food under those programs.

3. Deposit the money in one or more accounts in one or more banks or credit unions within the State.

4. Contract with respect to food, services, supplies, equipment and facilities for the operation of the programs.

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

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 291 to Senate Bill No. 230 revises the bill to require that school districts establish a policy concerning trans fats in food purchased and prepared by the school. This change replaces broader provisions concerning all such food or beverages present in the school. Instead, the policy must contain guidelines for parents and others concerning food brought to the school for authorized school activities, such as back-to-school and celebratory events.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 245.

Bill read second time.

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

Amendment No. 331.

"SUMMARY—Creates the Statewide Alert System for the Safe Return of Missing **Endangered** Older Persons. (BDR 38-710)"

"AN ACT relating to older persons; creating the Statewide Alert System for the Safe Return of Missing **Endangered** Older Persons; requiring the

Department of Public Safety to administer and adopt regulations for the System; prescribing the circumstances under which a law enforcement agency may activate the System; providing immunity from civil liability for ~~for a broadcaster~~ **certain persons** who ~~broadcasts~~ **disseminate** certain information pursuant to a notification of activation of the System; providing immunity from civil liability for certain persons who enter into agreements with the Department to establish or maintain an Internet website for the System; providing that a person who intentionally makes certain false or misleading statements to cause activation of the System is guilty of a category E felony; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 7 of this bill creates the Statewide Alert System for the Safe Return of Missing **Endangered** Older Persons, which is composed of a voluntary partnership among the Department of Public Safety, the Department of Transportation, state and local law enforcement agencies, **media outlets** and ~~broadcasters~~ **other public and private organizations** to assist in the search for and safe return of missing **endangered** older persons. ~~The System is similar to the existing Statewide Alert System for the Safe Return of Abducted Children (commonly known as the "Amber Alert Program").~~ **Section 7** requires the Department of Public Safety to administer the System. **Section 5 of this bill defines the term "missing endangered older person" for the purposes of the System to mean a person who is 60 years of age or older whose whereabouts are unknown and: (1) who has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or (2) who is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.** **Section 8** of this bill requires the Department of Public Safety to: (1) adopt regulations governing the operation of the System; (2) ~~oversee the System;~~ (3) ~~set~~ **develop a plan for carrying out the System which sets** forth the components of the System; **(3) oversee the System;** (4) supervise and evaluate any training associated with the System; (5) monitor, review and evaluate the activations of the System for compliance with the provisions of this bill; and (6) conduct periodic tests of the System. **Section 9** of this bill prescribes the circumstances under which a law enforcement agency may activate the System. **Section 10** of this bill provides immunity from civil liability for a ~~broadcaster~~ **media outlet or a public or private organization that participates in the System and any person working for the media outlet or public or private organization** who ~~broadcasts~~ **disseminates** certain information pursuant to a notification of activation of the System and for a person who enters into an agreement with the Department of Public Safety to establish or maintain a website for the System if the agreement provides that only the law enforcement agency activating the System has the authority or ability to place information on the website.

Existing law provides that a person who intentionally makes any false or misleading statement to cause the activation of the "Amber Alert" system is guilty of a category E felony. (NRS 207.285) **Section 11** of this bill provides the same penalty for a person who intentionally makes any false or misleading statement to cause the activation of the System created by this bill.

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

Section 1. Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~["Broadcaster" means a radio broadcasting station, cable operator or other video service provider or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.]~~ **(Deleted by amendment.)**

Sec. 4. *"Department" means the Department of Public Safety.*

Sec. 4.5. *"Media outlet" means a company or other similar entity that transmits news, feature stories, entertainment or other information to the public through various distribution channels, including, without limitation, newspapers, magazines, radio, broadcast, cable and satellite television and electronic media.*

Sec. 5. ~~["Older"]~~ *"Missing endangered older person" means a person who is 60 years of age or older ~~and~~ whose whereabouts are unknown and who:*

1. Has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or

2. Is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.

Sec. 6. *"System" means the Statewide Alert System for the Safe Return of Missing Endangered Older Persons created by section 7 of this act.*

Sec. 7. 1. *There is hereby created the Statewide Alert System for the Safe Return of Missing Endangered Older Persons, which is composed of a voluntary partnership among the Department of Public Safety, the Department of Transportation, state law enforcement agencies, local law enforcement agencies, media outlets and ~~broadcasters~~ other public or private organizations to assist in the search for and safe return of missing endangered older persons. The Department of Public Safety shall administer the System ~~and~~ within the limits of available money.*

2. *Each law enforcement agency ~~and broadcaster~~, media outlet and public or private organization that chooses to participate in the System shall comply with the provisions of sections 2 to 10, inclusive, of this act*

and any requirements prescribed by the Department for participation in the System.

3. Each law enforcement agency that chooses to participate in the System shall:

(a) Adopt a written policy concerning activation of the System by the agency that is consistent with the provisions of sections 2 to 10, inclusive, of this act and the regulations adopted by the Department pursuant to section 8 of this act; and

(b) Submit a copy of the written policy to the Department.

Sec. 8. 1. The Department shall:

(a) ~~Oversee the System;~~

~~(b) Set forth;~~ Develop a plan for carrying out the System which includes the components of the System;

(b) Oversee the System;

(c) Supervise and evaluate any training associated with the System;

(d) Monitor, review and evaluate the activations of the System to determine whether such activations complied with the provisions of sections 2 to 10, inclusive, of this act; and

(e) Conduct periodic tests of the System.

2. The Department may:

(a) Dedicate the System to one or more persons;

(b) Establish a name for the System that is in addition to the definition set forth in section 6 of this act;

(c) Identify and apply for federal funding available to carry out the provisions of sections 2 to 10, inclusive, of this act; and

(d) Accept gifts, grants and donations for use in carrying out the provisions of sections 2 to 10, inclusive, of this act.

3. The Department shall, in consultation with representatives of ~~this State's Emergency Alert System,~~ the Department of Transportation, the Nevada Sheriffs' and Chiefs' Association, ~~and~~ the Nevada Broadcasters Association, media outlets that participate in the System and any other public or private organization that participates in the System, adopt regulations to carry out the provisions of sections 2 to 10, inclusive, of this act.

Sec. 9. 1. A law enforcement agency which has jurisdiction over the investigation of a missing endangered older person may activate the System to ~~broadcast an emergency bulletin~~ disseminate a notice on behalf of the missing endangered older person if the law enforcement agency has:

(a) Confirmed that the whereabouts of the missing endangered older person ~~is missing,~~ are unknown;

(b) Confirmed either that the missing endangered older person ~~has~~ :

(1) Has been diagnosed with a medical or mental health condition that places the missing endangered older person in danger of serious physical harm or death; or

(2) Is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death; and

(c) Received sufficient descriptive information about the missing endangered older person or other pertinent information to warrant ~~immediate broadcast~~ dissemination of the information.

2. Before activation of the System on behalf of ~~an~~ a missing endangered older person, the law enforcement agency shall determine whether the ~~broadcast~~ dissemination of information will encompass:

(a) A particular neighborhood, city, county, region or state; or

(b) More than one neighborhood, city, county, region or state.

3. A law enforcement agency is not required to obtain the prior consent of the Department before activating the System, but the Department may review an activation of the System after the activation is complete.

4. A law enforcement agency that activates the System shall notify the Department and all participating members of the System upon cancellation of the activation and shall report the final disposition of the search for the missing endangered older person to the Department.

Sec. 10. 1. *If a ~~broadcaster~~ media outlet or any other public or private organization that participates in the System receives a notification of activation of the System by a law enforcement agency concerning a missing endangered older person and as a result of that notification ~~broadcasts~~ disseminates descriptive information concerning the missing endangered older person and other information contained in the notification to assist with the safe return of the missing endangered older person, the ~~broadcaster~~ media outlet, public or private organization and any person working for the media outlet or public or private organization is immune from civil liability for any act reasonably related to the ~~broadcast~~ dissemination of that information.*

2. If a person enters into an agreement with the Department to establish or maintain an Internet website for the System and the agreement provides that only the law enforcement agency activating the System has the authority or ability to place information on the website, the person who establishes or maintains the Internet website is immune from civil liability in any action based upon the information that is placed on the Internet website by the authorized law enforcement agency.

Sec. 11. NRS 207.285 is hereby amended to read as follows:

207.285 1. A person who intentionally makes any false or misleading statement, including, without limitation, any statement that conceals facts, omits facts or contains false or misleading information concerning any material fact, to any police officer, sheriff, district attorney, deputy sheriff, deputy district attorney or member of the Department of Public Safety to cause the ~~{System}~~ *Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340 or the Statewide Alert System for the Safe Return of Missing Endangered Older Persons created by section 7 of*

this act to be activated is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. The Attorney General or the district attorney of the county in which a person made a false or misleading statement may investigate and prosecute any violation of the provisions of this section.

~~{3. As used in this section, "System" means the Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340.}~~

Sec. 12. The Department of Public Safety shall adopt the regulations required by section 8 of this act on or before December 31, 2011.

Sec. 13. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 331 revises Senate Bill No. 245 by specifying "endangered" older persons.

Defining the term "missing endangered older person" for the purpose of the System to mean that a person who is 60 years of age or older whose whereabouts are unknown and:

1. Who has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or

2. Who is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.

It also requires the Department of Public Safety to develop a plan for implementing the System and overseeing the System.

And, it further provides immunity from civil liability for media outlets or public or private organizations that participate in the System and any person working for the media outlet or public or private organization that disseminates certain information pursuant to the notification of activation of the System.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 257.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 163.

"SUMMARY—Revises various provisions governing graffiti offenses. (BDR 15-616)"

"AN ACT relating to crimes; revising various provisions governing graffiti offenses; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally provides that a person who unlawfully places graffiti on or otherwise defaces public or private property is guilty of a misdemeanor, gross misdemeanor or felony, depending on the value of the loss of the property. Additionally, if a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of the loss of all the property must be aggregated for the purposes of determining a penalty

if the value of the loss is \$5,000 or more. (NRS 206.330) **Section 1** of this bill revises this provision and requires aggregation when the value of the loss is ~~is \$250 or more.~~ **Section 1** also provides that a person who commits an offense on any ~~designated historic~~ **protected** site in this State is guilty of a category C felony.

Existing law also requires a person who unlawfully places graffiti on or otherwise defaces public or private property to pay a monetary fine and perform community service. (NRS 206.330) **Section 1** specifies that in addition to any other fine or penalty imposed, a court may order such a person to pay restitution. **Section 1 also provides that a person convicted of a third offense must perform up to 300 hours of community service for up to a year cleaning up, repairing, replacing or keeping clean of graffiti the property damaged or destroyed by the person or another specified property.**

Section 2 of this bill also authorizes a court to order ~~such~~ a person **who unlawfully places graffiti on or otherwise defaces public or private property** to ~~for (1) clean up, repair or replace the damaged property or keep such property or another specified property free of graffiti for up to 1 year; and (2)~~ participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling. **Section 2** further authorizes the owner of public or private property that has been damaged by graffiti to bring a civil action against the person who damaged the property. The property owner may be awarded damages in an amount up to three times the cost of restoring the property, in addition to attorney's fees and costs.

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

Section 1. NRS 206.330 is hereby amended to read as follows:

206.330 1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

(a) Where the value of the loss is less than \$250, is guilty of a misdemeanor.

(b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.

(c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

*(d) Where the offense is committed on any ~~designated historic~~ **protected** site in this State, is guilty of a category C felony and shall be punished as provided in NRS 193.130. If the court grants probation to such*

a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

2. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses must be aggregated for the purpose of determining the penalty prescribed in subsection 1, but only if the value of the loss when aggregated is ~~[\$5,000] ~~[\$250]~~ \$500~~ or more.

3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, pay a fine of not less than \$400 but not more than \$1,000 and perform 100 hours of community service.

(b) For the second offense, pay a fine of not less than \$750 but not more than \$1,000 and perform 200 hours of community service.

(c) For the third and each subsequent offense ~~to pay~~:

(1) Pay a fine of \$1,000 ; and ~~perform 200 hours of~~

(2) Perform up to 300 hours of community service ~~for up to 1 year,~~ as determined by the court. The court may order the person to repair, replace, clean up or keep free of graffiti the property damaged or destroyed by the person or, if it is not practicable for the person to repair, replace, clean up or keep free of graffiti that specific property, the court may order the person to repair, replace, clean up or keep free of graffiti another specified property.

➤ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. ***The court may, in addition to any other fine or penalty imposed, order a person who violates subsection 1 to pay restitution.***

5. The parent or legal guardian of a person under ~~the age of~~ 18 years ***of age*** who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

~~{5-}~~ 6. If a person who is 18 years of age or older is found guilty of violating this section, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.

~~{6-}~~ 7. The Department of Motor Vehicles:

(a) Shall not treat a violation of this section in the manner statutorily required for a moving traffic violation.

(b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record. An insurance company shall not use any information obtained pursuant to this paragraph for purposes related to establishing premium rates or determining whether to underwrite the insurance.

~~{7-}~~ **8.** A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to *this section* or another statute for the same conduct.

~~{8-}~~ **9.** As used in this section:

(a) ~~{Historic site}~~ means a site, landmark or monument of historical significance pertaining to the history of the settlement of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials.

~~{b-}~~ "Impairment" means the disruption of ordinary and incidental services, the temporary loss of use or the removal of the property from service for repair of damage.

(b) "Protected site" means:

(1) A site, landmark, monument, building or structure of historical significance pertaining to the history of the settlement of Nevada;

(2) Any Indian campgrounds, shelters, petroglyphs, pictographs and burials; or

(3) Any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe.

(c) "Value of the loss" means the cost of repairing, restoring or replacing the property, including, without limitation, the cost of any materials and labor necessary to repair, restore or replace the item.

Sec. 2. NRS 206.345 is hereby amended to read as follows:

206.345 **1.** *A court may, in addition to any other fine or penalty imposed, order a person who places graffiti on or otherwise defaces public or private property in violation of NRS 206.125 or 206.330 to ~~do any or all of the following:~~*

~~(a) Clean up, repair or replace the damaged property or keep the damaged property or another specified property in the community free of graffiti for up to 1 year.~~

~~(b) Participate~~ participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling pursuant to NRS 62E.290.

2. If a court orders a person who violates the provisions of NRS 206.125 or 206.330 to pay restitution, the person shall pay the restitution to:

~~{1-}~~ **(a)** The owner of the property which was affected by the violation; or

~~{2-}~~ **(b)** If the violation involved the placing of graffiti on any public property, the governmental entity that incurred expenses for removing, covering or cleaning up the graffiti.

3. The owner of public or private property that has been damaged by graffiti may bring a civil action against the person who placed the graffiti on such property. The court may award to the property owner damages in an amount up to three times the cost of restoring the property plus attorney's fees and costs, which may be recovered from the offender or, if the offender is less than 18 years of age, from the parent or legal guardian of the offender.

Sec. 3. NRS 381.225 is hereby amended to read as follows:

381.225 1. It is unlawful for any person to commit vandalism upon any historic or prehistoric sites, natural monuments, speleological sites and objects of antiquity, or to write or paint or carve initials or words, or in any other way deface, any of those objects, Indian paintings or historic buildings.

2. Unless a greater penalty is provided in NRS 206.125 ~~or~~ **or 206.330**, a person violating the provisions of subsection 1 is guilty of a public offense proportionate to the value of the property damaged or destroyed as set forth in NRS 193.155.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 163 to Senate Bill No. 257 makes three primary changes to the bill.

1) It changes "designated historic site" to "protected site" and includes archeological or paleontological areas.

2) It increases the aggregate value of damage from \$250 to \$500 and;

3) It provides that a person convicted of a third offense must perform up to 300 hours of community service for up to a year cleaning up, repairing, replacing, or keeping clean of graffiti the damaged property or another site.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 260.

Bill read second time.

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

Amendment No. 343.

"SUMMARY—Provides an alternative procedure for the creation of certain local improvement districts. (BDR 21-126)"

"AN ACT relating to local improvements; providing an alternative procedure for the creation of certain local improvement districts that include a renewable energy project ~~or~~ **or an energy efficiency improvement project**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the procedures for a governing body to acquire, improve, equip, operate and maintain local improvement districts that include various types of projects, including renewable energy projects ~~or~~ **and energy efficiency improvement projects**. (NRS 271.265-271.630) **Sections 2-4 of**

this bill provide an alternative procedure for the creation of a local improvement district that includes a renewable energy project ~~or an~~ **energy efficiency improvement project.**

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

Section 1. Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *A governing body may adopt an ordinance pursuant to NRS 271.325 creating an improvement district and ordering a renewable energy project or an energy efficiency improvement project to be acquired or improved and may contract with a person to construct or improve a renewable energy project ~~or~~ or an energy efficiency improvement project, issue bonds or otherwise finance the cost of the renewable energy project or energy efficiency improvement project and levy assessments on assessable property, without complying with the provisions of NRS 271.305 to 271.320, inclusive, 271.380 and 271.385, if the governing body:*

(a) Issues a provisional order pursuant to NRS 271.280 to form an improvement district for a renewable energy project ~~or~~ or an energy efficiency improvement project; and

(b) Has entered into a written agreement with the owners of all assessable property who applied pursuant to section 4 of this act to have their property included in the improvement district which states that:

(1) The governing body agrees to enter into a contract for the acquisition, construction or improvement of the renewable energy project or energy efficiency improvement project in the improvement district.

(2) The owners of the assessable property agree in writing that the governing body may create the improvement district, levy assessments against their property and, for all other purposes relating to the improvement district, proceed pursuant to the provisions of this section.

2. *If an ordinance is adopted and the agreement entered into pursuant to subsection 1 so states:*

(a) ~~The governing body may amend the ordinance creating the improvement district, change the assessment roll and redistribute the assessments required pursuant to NRS 271.390 in the same manner in which these actions were originally taken to add additional property to the improvement district. The assessments may be redistributed between the assessable property originally in the improvement district and the additional assessable property if:~~

(1) ~~The owners of the additional assessable property submit an application pursuant to section 4 of this act and consent in writing to inclusion of their property in the improvement district and to the amount of the assessment against their property; and~~

(2) ~~The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the improvement district.~~

~~(b) The governing body may amend the ordinance creating the improvement district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to remove assessable property from the improvement district. The assessments may be redistributed among the assessable property remaining in the improvement district if:~~

~~(1) The owners of the remaining assessable property consent in writing to the amount of the revised assessment on their property; and~~

~~(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the improvement district.~~

~~(c)†~~ The governing body may adopt any ordinance pertaining to the improvement district including the ordinance creating the improvement district required by NRS 271.325, the ordinance authorizing interim warrants required by NRS 271.355, the ordinance levying assessments required by NRS 271.390, the ordinance authorizing bonds required by NRS 271.475 or any ordinance amending those ordinances after a single reading and without holding a hearing thereon, as if an emergency exists, upon an affirmative vote of not less than two-thirds of all voting members of the governing body, excluding from any computation any vacancy on the governing body and any members thereon who may vote to break a tie vote, and provide that the ordinances become effective at the time an emergency ordinance would have become effective. The provisions of NRS 271.308 do not apply to any such ordinance.

~~†(d)†~~ (b) The governing body may provide for a reserve fund, letter of credit, surety bond or other collateral for payment of any interim warrants or bonds issued for the improvement district and include all or any portion of the costs thereof in the amounts assessed against the property in the improvement district and in the amount of bonds issued for the improvement district. The governing body may provide for the disposition of interest earned on the reserve fund and other bond proceeds, for the disposition of unexpended bond proceeds after completion of the renewable energy project or energy efficiency improvement project and for the disposition of the unexpended balance in the reserve fund after payment in full of the bonds for the improvement district.

3. If the governing body of a municipality forms an improvement district pursuant to the provisions of this section, the governing body:

(a) Is not required to adopt the resolutions required pursuant to the provisions of NRS 271.310, 271.360 and 271.390.

(b) Shall be deemed to have adopted the resolution required pursuant to the provisions of NRS 271.325 if the plans and specifications are sufficiently specific to allow a competent contractor with the assistance of a competent engineer to estimate the cost of constructing the renewable energy project or energy efficiency improvement project and to construct the renewable energy project ~~†~~ or energy efficiency improvement project.

Sec. 3. 1. Any agreement entered into pursuant to section 2 of this act must:

- (a) Include a description of the property in the improvement district.**
- (b) Be signed by the chair of the governing body and the owners of all assessable property within the improvement district. If a tract of assessable property within the improvement district is owned by more than one person, each person who owns the tract must sign the agreement.**
- (c) Be accompanied by an acknowledgment of each signature.**
- (d) Be recorded in the office of the county recorder.**

2. Upon recording pursuant to paragraph (d) of subsection 1, the agreement:

- (a) Is binding on all subsequent owners of assessable property in the improvement district;**
- (b) Is not extinguished by the sale of any property on account of nonpayment of general taxes or any other sale of the property; and**
- (c) Is prior and superior to all liens, claims, encumbrances and titles other than the liens of assessment and general taxes.**

Sec. 4. 1. An owner of a tract that is included in a provisional order to form an improvement district for a renewable energy project or an energy efficiency improvement project who wants to have the tract included in the assessable property of an improvement district for a renewable energy project or an energy efficiency improvement project must submit an application to the governing body on a form prescribed by the governing body.

2. If more than one person owns a tract that is included in a provisional order to form an improvement district for a renewable energy project ~~or~~ or an energy efficiency improvement project, each owner of the tract must submit an application to the governing body in order to have the tract included in the assessable property of a renewable energy project ~~or~~ or an energy efficiency improvement project.

3. The governing body may not include a tract in the assessable property of an improvement district for a renewable energy project or an energy efficiency improvement project unless the owner or owners of the tract apply pursuant to this section to have the tracts included.

Sec. 5. NRS 271.270 is hereby amended to read as follows:

271.270 The governing body of any municipality, upon behalf of the municipality and in its name, for the purpose of defraying all the cost of acquiring or improving, or acquiring and improving, any project herein authorized, or any portion of the cost thereof not to be defrayed with moneys available therefor from the general fund, any special fund, or otherwise, shall have power hereunder:

1. To levy assessments against assessable property within the municipality and to cause the assessments so levied to be collected.

2. ~~{}{}{} Except as otherwise provided in NRS 271.495,~~ to levy from time to time and cause to be collected taxes against all taxable property within the

municipality, without limitation as to rate or amount, except for the limitation in Section 2 of Article 10 of the Constitution of the State of Nevada, to pay the principal of and interest on bonds to the extent assessments are insufficient therefor.

3. To pledge the proceeds of any assessments and taxes levied hereunder to the payment of special assessment bonds and to create liens on such proceeds to secure such payments.

4. To issue special assessment bonds as herein provided.

5. To make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted herein, or in the performance of the municipality's covenants or duties or in order to secure the payment of its bonds, provided no encumbrance, mortgage or other pledge of property (excluding any money) of the municipality is created thereby, and provided no property (excluding money) of the municipality is liable to be forfeited or taken in payment of such bonds.

Sec. 6. NRS 271.308 is hereby amended to read as follows:

271.308 Except as otherwise provided in NRS 271.475 ~~††~~ *and paragraph ~~(c)~~ (a) of subsection 2 of section 2 of this act:*

1. When expressly authorized by a provision of this chapter and the conditions of paragraph (a) or (b), or both, of subsection 2 of NRS 271.306 are satisfied, an ordinance required by this chapter may be adopted or amended as if an emergency existed.

2. The governing body's declaration, if any, in any ordinance that it is such an ordinance is conclusive in the absence of fraud or gross abuse of discretion.

3. Such an ordinance may become effective at any time when an emergency ordinance of the municipality may go into effect.

4. Such an ordinance may be adopted by an affirmative vote of not less than two-thirds of all the voting members of the governing body, excluding from any such computation any vacancy on the governing body and any member thereon who may vote only to break a tie vote.

Sec. 7. NRS 271.310 is hereby amended to read as follows:

271.310 1. On the date and at the place fixed for the hearing any and all property owners interested in the project may present their views in respect to the proposed projects to the governing body. The governing body may adjourn the hearing from time to time.

2. After the hearing has been concluded, after all written complaints, protests and objections have been read and considered, and after all persons desiring to be heard in person have been heard, the governing body shall consider the arguments, if any, and any other relevant material put forth, and shall , *except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act*, by resolution or ordinance, as the board determines, pass upon the merits of each such complaint, protest or objection.

3. If the governing body determines that it is not for the public interest that the proposed project, or a part of the project, be made, the governing

body shall , *except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act*, make an order by resolution to that effect, and thereupon the proceedings for the project, or the part of the project determined against by the order, must stop and must not be begun again until the adoption of a new resolution.

4. Any complaint, protest or objection to:

(a) The propriety of acquiring or improving or acquiring and improving the project;

(b) The estimated cost of the project;

(c) The determination concerning the portion of the cost of the project to be paid by assessments;

(d) The method used to estimate the special benefits to be derived from the project generally or by any tract in the assessment area;

(e) The basis established for apportionment of the assessments; or

(f) The regularity, validity and correctness of any other proceedings or instruments taken, adopted or made before the date of the hearing,

➤ shall be deemed waived unless presented in writing at the time and in the manner provided by NRS 271.305.

Sec. 8. NRS 271.360 is hereby amended to read as follows:

271.360 1. ~~{After}~~ *Except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act*, after the making of any construction contract, or after the determination of the net cost to the municipality, but not necessarily after the completion of the project, the governing body, by resolution or by a document prepared by the engineer and ratified by the governing body, shall:

(a) Determine the cost of the project to be paid by the assessable property in the improvement district.

(b) Order the engineer to make out an assessment roll, or ratify his or her roll already made, containing, among other things:

(1) The name of each last known owner of each tract to be assessed, or if not known, that the name is "unknown."

(2) A description of each tract to be assessed, and the amount of the proposed assessment thereon, apportioned upon the basis for assessments stated in the provisional order for the hearing on the project.

(c) Cause a copy of the resolution or ratified document to be furnished by the clerk to the engineer.

2. In fixing the amount or sum of money that may be required to pay the costs of the project, the governing body need not necessarily be governed by the estimates of the costs of such project provided for herein, but the governing body may fix such other sum, within the limits prescribed, as it may deem necessary to cover the cost of such project.

3. Before ordering the engineer to make out an assessment roll or ratifying his or her roll already made, the governing body shall consider all applications for hardship determinations and the recommendations made by the social services agency and make a final decision on each application. The

governing body shall direct the engineer to postpone the assessments on property for which a hardship determination has been finally approved. A property owner whose hardship determination is approved shall pay interest on the unpaid balance of previous and current assessments at the same rate and terms as are established for other assessments in the manner provided by the governing body. The assessment must remain postponed until the earlier of the following occurrences:

(a) The property is sold or transferred to a person other than one to whom a hardship determination has been granted;

(b) The term of the bonds expires;

(c) The property owner's application for renewal of the hardship determination is disapproved;

(d) The property owner fails to pay the interest on the unpaid balance of assessments in a timely manner; or

(e) The property owner pays all previous and current assessments.

4. A property owner may pay all previous and current assessments at any time before they become due without penalty.

5. The governing body shall not sell bonds on the basis of the assessments for which hardship determinations have been approved. A special fund for the payment of the costs of the project assessed against property for which hardship determinations have been made must be created. The fund must be reimbursed when the balance of unpaid assessments are paid, including all interest paid during the period of postponement. The surplus and deficiency fund established pursuant to NRS 271.428 may be used as the special fund.

6. If by mistake or otherwise any person is improperly designated in the assessment roll as the owner of any tract, or if the same is assessed without the name of the owner, or in the name of a person other than the owner, such assessment shall not for that reason be vitiated but shall, in all respects, be as valid upon and against such tract as though assessed in the name of the owner thereof; and when the assessment roll has been confirmed, such assessment shall become a lien on such tract and be collected as provided by law.

Sec. 9. NRS 271.390 is hereby amended to read as follows:

271.390 1. ~~{After}~~ ***Except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act, after*** the assessment roll is in final form and is so confirmed by resolution, the municipality by ordinance shall, by reference to the assessment roll, as modified if modified, and as confirmed by the resolution, levy the assessments in the roll. This ordinance may be adopted or amended as if an emergency existed.

2. Written notice of the levy of assessment must be given by mail to the owners of all the property upon which the assessment was levied.

3. The decision, resolution and ordinance are a final determination of the regularity, validity and correctness of the proceedings, of the assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract and parcel of land.

4. The determination by the governing body is conclusive upon the owners of the property assessed.

5. The roll, when endorsed by the clerk as the roll designated in the assessment ordinance, is prima facie evidence in all courts and tribunals of the regularity of all proceedings preliminary to the making thereof and the validity of the assessments and the assessment roll.

Sec. 10. NRS 271.430 is hereby amended to read as follows:

271.430 ~~{Should}~~

1. *Except as otherwise provided in subsection 2, should* any assessment prove insufficient to pay for the project or work for which it is levied and the expense incident thereto, the amount of the deficiency must be paid from the general fund of the municipality to the extent that money is not available for its payment from the surplus and deficiency fund.

2. *A municipality may not use any assets in its general fund to pay a deficiency described in subsection 1 that is related to a renewable energy project or an energy efficiency improvement project acquired or improved pursuant to section 2 of this act.*

Sec. 11. NRS 271.495 is hereby amended to read as follows:

271.495 **1. *Except as otherwise provided in subsection 2:***

(a) If the special fund created by the proceeds of the assessments is insufficient to pay such bonds and interest thereon as they become due and the amounts in the surplus and deficiency fund are not sufficient for that purpose, the deficiency must be paid out of any assets in the general fund of the municipality, regardless of source, which are otherwise legally available therefor.

~~{2-}~~ **(b)** If the general fund is insufficient to pay any such deficiency promptly, the governing body shall levy general (ad valorem) taxes upon all property in the municipality which is by law taxable for state, county and municipal purposes, without regard to any statutory or charter tax limitation existing on or after May 14, 1965, and without limitation as to rate or amount, fully sufficient, after making due allowance for probable delinquencies, to provide for the prompt payment of such bonds as they become due, both principal and interest, but subject to the limitations set forth in NRS 361.453 and Section 2 of Article 10 of the Nevada Constitution.

2. *A municipality may not use any assets in its general fund to pay a deficiency of a special fund created by the proceeds of the assessments for a renewable energy project or an energy efficiency improvement project acquired or improved pursuant to section 2 of this act.*

Sec. 12. This act becomes effective on July 1, 2011.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 343 to Senate Bill No. 260 adds the term "or an energy efficiency improvement project" throughout the bill.

This addition would provide that the Local Improvement District (LID) could be created for "a renewable energy project or an energy efficiency improvement project" and secondly removes provisions in the bill that would have allowed the governing body to amend the ordinance creating the LID to provide for the redistribution of assessments of the LID.

There was some discussion in Committee about properties being able to move in and out of the LID. This amendment would eliminate that possibility.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 261.

Bill read second time.

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

Amendment No. 342.

"SUMMARY—Makes various changes relating to the reorganization **or combination and reorganization** of certain fire protection districts. (BDR 42-836)"

"AN ACT relating to fire protection districts; setting forth the notice requirements for certain hearings held by **certain** boards of county commissioners regarding the reorganization **or combination and reorganization** of certain fire protection districts; requiring, under certain circumstances, ~~the board~~ **certain boards** of county commissioners to submit the question of whether to reorganize **or combine and reorganize** certain fire protection districts to the electors of the districts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a fire protection district may be formed by: (1) an affirmative vote by the electors of the territory included in a proposed district; or (2) an ordinance adopted by the board of county commissioners of the county in which the fire protection district is located. (NRS 474.010-474.120, 474.460) The powers and duties of a fire protection district created by election differ from the powers and duties of a fire protection district created by a board of county commissioners. (NRS 474.160-474.450, 474.460-474.540) Under certain circumstances, a board of county commissioners may reorganize a fire protection district that was created by the board. Upon reorganization, the fire protection district has the same powers and duties as a fire protection district originally created by election. (NRS 474.535)

This bill ~~requires a~~ **provides, in a county whose population is 700,000 or more (currently Clark County), for the reorganization of a fire protection district that has been in existence for at least 2 years or the combination and reorganization of two or more fire protection districts that have been in existence for at least 2 years. For such a reorganization or combination and reorganization, the** board of county commissioners ~~to~~ **must** provide notice of the board's hearing to consider the reorganization ~~of a fire protection district that was created by the board.~~ **or**

combination and reorganization. Such notice must be published in a newspaper of general circulation once a week for 3 weeks. If a board of county commissioners does not adopt an ordinance reorganizing the fire protection district **or combining and reorganizing the fire protection districts** after the hearing, this bill requires the board to submit the issue of reorganization **or combination and reorganization** to the electors of the fire protection district **or districts** at the next primary or general election.

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

Section 1. Chapter 474 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 700,000 or more:

(a) A fire protection district established pursuant to NRS 474.460 to 474.540, inclusive, which has been in existence for at least 2 years may be reorganized as a fire protection district subject to the provisions of NRS 474.010 to 474.450, inclusive, in the manner provided in this section; and

(b) Two or more fire protection districts established pursuant to NRS 474.460 to 474.540, inclusive, which have been in existence for at least 2 years may combine and be reorganized as one fire protection district subject to the provisions of NRS 474.010 to 474.450, inclusive, in the manner provided in this section.

2. The reorganization of a district or the combination and reorganization of districts may be initiated by:

(a) A petition signed by at least a majority of the owners of property located within the district or districts; or

(b) A resolution of the board of county commissioners of the county in which the district or districts are located.

3. If reorganization or combination and reorganization is initiated pursuant to subsection 2, the board of county commissioners shall:

(a) Fix a time and place for a hearing on the matter; and

(b) Direct the clerk of the board of county commissioners to publish the notice of the proposed reorganization or proposed combination and reorganization, and of the time and place fixed for the hearing. The board shall designate that publication must be once a week for at least 3 weeks in a newspaper of general circulation published in the county and circulated in the district or districts, or if there is no newspaper so published and circulated, in a newspaper of general circulation circulated in the district or districts.

4. After notice and a hearing, the board of county commissioners may adopt an ordinance reorganizing the district or combining and reorganizing the districts, as applicable.

5. If the board of county commissioners does not adopt an ordinance pursuant to subsection 4, the board shall submit the question of whether the district shall be reorganized or whether the districts shall be combined

and reorganized, as applicable, to the electors of the district or districts at the next primary or general election. Notice of the election must be published once a week for at least 3 weeks before the election in a newspaper of general circulation published in the county and circulated in the district or districts or, if there is no newspaper so published and circulated, in a newspaper of general circulation circulated in the district or districts.

6. If, upon the canvass of the vote, it appears that a majority of all votes cast in the district or districts are in favor of the reorganization of the district or the combination and reorganization of the districts, as applicable, the board of county commissioners shall adopt an ordinance reorganizing the district or combining and reorganizing the districts, as applicable.

7. The ordinance adopted pursuant to subsection 4 or 6, as applicable, must include the name and boundaries of the reorganized district.

8. The board shall cause a copy of the ordinance, certified by the clerk of the board of county commissioners, to be filed immediately for record in the office of the county recorder.

9. The reorganization of the district or the combination and reorganization of the districts is complete upon the filing of the ordinance pursuant to this section. The reorganized district thereafter is subject to the provisions of NRS 474.010 to 474.450, inclusive. Upon the completion of the reorganization of the district or the combination and reorganization of the districts, the reorganized district shall assume the debts, obligations, liabilities and assets of the former district or districts.

10. The board of county commissioners shall:

(a) Make an order dividing the reorganized district into election precincts, or providing for the election of directors at large, in the manner provided in NRS 474.070.

(b) Appoint the initial members of the board of directors of the reorganized district to terms established in the manner provided in NRS 474.130. Each director must be a resident of the precinct, if any, for which the director is appointed and serves until a successor is elected and qualified.

~~{Section 1.}~~ Sec. 2. NRS 474.535 is hereby amended to read as follows:

474.535 1. ~~{A}~~ In a county whose population is less than 700,000, a fire protection district established pursuant to NRS 474.460 to 474.540, inclusive, and section 1 of this act, which has been in existence for at least 10 years, may be reorganized as a fire protection district subject to the provisions of NRS 474.010 to 474.450, inclusive, in the manner provided in this section.

2. The reorganization of such a district may be initiated by:

(a) A petition signed by at least a majority of the owners of property located within the district; or

(b) A resolution of the board of county commissioners of the county in which the district is located.

3. If ~~, after reorganization is initiated pursuant to subsection 2, the board of county commissioners shall:~~

~~(a) Fix a time and place for a hearing on the matter; and~~

~~(b) Direct the clerk of the board of county commissioners to publish the notice of the proposed reorganization, and of the time and place fixed for the hearing. The board shall designate that publication must be once a week for at least 3 weeks in a newspaper of general circulation published in the county and circulated in the district, or if there is no newspaper so published and circulated, then in a newspaper of general circulation circulated in the district.~~

~~4. After~~ notice and a hearing, the board of county commissioners determines that the reorganization of the district is in the best interests of the county and the district, it shall ~~may~~ adopt an ordinance reorganizing the district.

~~f 5. If the board of county commissioners does not adopt an ordinance pursuant to subsection 4 that reorganizes the district, the board shall submit the question of whether the district shall be reorganized to the electors of the district at the next primary or general election. Notice of the election must be published once a week for at least 3 weeks before the election in a newspaper of general circulation published in the county and circulated in the district, or if there is no newspaper so published and circulated, then in a newspaper of general circulation circulated in the district.~~

~~6. If, upon the canvass of the vote, it appears that a majority of all votes cast in the district are in favor of the reorganization of the district, the board of county commissioners shall adopt an ordinance reorganizing the district.~~

~~7. The ordinance adopted pursuant to subsection 4 or 6, as applicable, must include the name and boundaries of the district.~~

4. ~~f8.~~ The board shall cause a copy of the ordinance, certified by the clerk of the board of county commissioners, to be filed immediately for record in the office of the county recorder.

5. ~~f9.~~ The reorganization of the district is complete upon the filing of the ordinance pursuant to this section. The district thereafter is subject to the provisions of NRS 474.010 to 474.450, inclusive. Upon the completion of the reorganization of the district, the district shall assume the debts, obligations, liabilities and assets of the former district.

6. ~~f10.~~ The board of county commissioners shall:

(a) Make an order dividing the district into election precincts, or providing for the election of directors at large, in the manner provided in NRS 474.070.

(b) Appoint the initial members of the board of directors of the district to terms established in the manner provided in NRS 474.130. Each director must be a resident of the precinct, if any, for which the director is appointed, and serves until a successor is elected and qualified.

~~[Sec. 2.]~~ **Sec. 3.** This act becomes effective upon passage and approval.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 342 to Senate Bill No. 261 provides that the existing language in NRS 474.535 regarding the reorganization of a fire protection district apply to counties whose population is 100,000 or less.

It provides that in Clark County, a fire protection district, which has been in existence for at least two years, may be reorganized.

It provides that two or more fire protection districts that have been in existence for two or more years may be combined and reorganized into one fire protection district.

It also adds language setting forth the procedure for reorganization, including: (1) how it may be initiated; (2) public notice requirements; (3) public hearing procedures; (4) the adoption of an ordinance by the Board of County Commissioners; (5) the placement of the reorganization question on the ballot if the Board does not adopt such an ordinance; and (6) the appointment and election of district directors to the reorganized fire protection district; and specifies that the bill is only applicable to Clark County.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 276.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 469.

"SUMMARY—Revises provisions governing safe and respectful learning environments in public schools. (BDR 34-643)"

"AN ACT relating to education; revising provisions governing safe and respectful learning environments in public schools; requiring the Department of Education to establish **and recommend** training programs for members of the State Board of Education, boards of trustees of school districts ~~[anti-bullying school district coordinators and anti-bullying school specialists]~~ **and school district personnel** on the prevention of bullying, cyber-bullying, harassment and intimidation in public schools; ~~[requiring the Department of Education to assign a grade to each school district and public school based upon certain reports on incidents of bullying, cyber-bullying, harassment and intimidation in public schools;]~~ creating the Bullying Prevention Fund in the State General Fund; ~~[requiring the board of trustees of each school district to appoint an anti-bullying school district coordinator;]~~ requiring the principal of each public school to ~~[appoint an anti-bullying school specialist and]~~ **establish** a school safety team; authorizing a parent or legal guardian of a pupil involved in an incident of bullying, cyber-bullying, harassment or intimidation to appeal a **disciplinary** decision of the ~~[superintendent of schools of a school district or the board of trustees of a school district]~~ **principal made against the pupil** concerning the incident; ~~[requiring applicants for a license to teach and certain licensed teachers to complete course work in the prevention of bullying, cyber-bullying, harassment and~~

~~intimidation in public schools;}~~ revising provisions governing the grounds for disciplinary action against teachers and administrators; ~~encouraging private schools to adopt policies governing safe and respectful learning environments; authorizing the Board of Regents of the University of Nevada to adopt a policy prohibiting bullying, cyber-bullying, harassment and intimidation;}~~ requiring the Governor to annually proclaim the first week in October to be "Week of Respect"; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a safe and respectful learning environment in public schools, which includes, without limitation, a prohibition on bullying, cyber-bullying, harassment and intimidation in public schools, the provision of training to school personnel and the reporting of incidents of bullying, cyber-bullying, harassment and intimidation in public schools. (NRS 388.121-388.139) ~~{This bill makes various revisions to those provisions and is modeled after the "Anti-Bullying Bill of Rights Act" enacted by the State of New Jersey on January 5, 2011. (2010 N.J. Laws 422)}~~

Sections 1-3 of this bill revise the components of the annual reports of accountability prepared by the State Board of Education and the boards of trustees of school districts to include reports on incidents ~~of~~ **resulting in suspension or expulsion for** bullying, cyber-bullying, harassment and intimidation.

Section 7 of this bill requires the Department of Education to develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils in resolving incidents of bullying, cyber-bullying, harassment and intimidation.

Section 8 of this bill requires the Department to establish a program of training on the prevention of bullying, cyber-bullying, harassment and intimidation for ~~{(1)}~~ members of the State Board ~~{(2)}~~ **and to recommend a program of training for** members of the boards of trustees of school districts ~~{(3)}~~ **and school district personnel.** **Section 8** also **:** **(1)** requires ~~{(1)}~~ each member of the State Board and **authorizes** each member of a board of trustees to complete the training program ~~{within 1 year after the member is elected or appointed; and (2) each anti-bullying school district coordinator and anti-bullying school specialist}~~ **; and (2) authorizes the board of trustees of the school district to allow school district personnel** to ~~{complete}~~ **attend** the program ~~{before the commencement of his or her duties in that position.}~~ **during regular school hours.**

Section 9 of this bill creates the Bullying Prevention Fund in the State General Fund to be administered by the Superintendent of Public Instruction. **Section 9** also authorizes school districts to apply to the State Board for a grant of money from the Fund, which must be used to establish programs,

provide training and implement procedures that create a school environment which is free from bullying, cyber-bullying, harassment and intimidation.

~~Section 10 of this bill requires the board of trustees of each school district to appoint an employee of the school district to serve as the anti-bullying school district coordinator and prescribes the duties of the coordinator.~~

~~Sections 11 and 12 of this bill require~~ **requires** the principal of each public school **or his or her designee** to ~~appoint an anti-bullying school specialist and~~ **establish** a school safety team ~~and prescribes their qualifications and duties.~~ **;** **(2) conduct investigations of reported incidents of bullying, cyber-bullying, harassment and intimidation; and** **(3) collaborate with the board of trustees of the school district and the school safety team to prevent, identify and address reported incidents of bullying, cyber-bullying, harassment and intimidation. Section 12 of this bill prescribes the qualifications and duties of the school safety team.**

Section 13 of this bill requires the principal of each public school to submit to the board of trustees of the school district a report on the number of incidents of bullying, cyber-bullying, harassment and intimidation occurring at the school or involving a pupil enrolled at the school during the previous school semester. Section 13 also requires the board of trustees to submit to the Department a compilation of the reports. ~~Section 13 further requires the Department to assign a grade to each school district and each public school based upon the report.~~

Section 14 of this bill requires a teacher or other staff member of a school who witnesses a violation of the prohibition on bullying, cyber-bullying, harassment and intimidation occurring at the school or who receives information of such a violation to **verbally** report the violation to the principal ~~or the principal's designee.~~ Section 14 also requires the principal **or the principal's designee** to initiate an investigation of the reported violation ~~which must be conducted by the anti-bullying school specialist and to submit a report of his or her recommendations to the superintendent of schools of the school district. A)~~ **and provides that a parent or legal guardian of a pupil involved in the reported violation may appeal the a disciplinary decision of the superintendent of schools to principal or the principal's designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by** the board of trustees of the school district.

~~Sections 15 and 16 of this bill authorize a parent or legal guardian of a pupil involved in a reported violation of an incident of bullying, cyber-bullying, harassment or intimidation to appeal a decision of the board of trustees of a school district to the State Board.~~

Section 17 of this bill requires the board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, to establish a policy for the procedures which must be followed by an employee of the school district when reporting a violation of the prohibition

of bullying, cyber-bullying, harassment and intimidation to a school police officer or local law enforcement agency.

~~{ Section 27 of this bill requires applicants for a license to teach and licensed teachers to complete a course in the prevention of bullying, cyber-bullying, harassment or intimidation in schools. }~~

Section 28 of this bill revises the grounds for which a teacher or administrator may be demoted, suspended, dismissed or not reemployed to include an intentional failure to report a violation of the prohibition of bullying, cyber-bullying, harassment and intimidation. ~~{Section 28 also provides that a principal may be demoted, suspended, dismissed or not reemployed for intentional failure to initiate or conduct an investigation into a reported incident of bullying, cyber-bullying, harassment or intimidation or failure to take appropriate action if he or she should have known of the violation. }~~

~~Section 30 of this bill encourages the private schools of this State to adopt policies and programs consistent with the provisions governing a safe and respectful learning environment in public schools to prevent bullying, cyber-bullying, harassment or intimidation in private schools.~~

~~Section 31 of this bill authorizes the Board of Regents of the University of Nevada to adopt a policy to provide a safe and respectful learning environment that is free from bullying, cyber-bullying, harassment and intimidation in a university, state college or community college within the Nevada System of Higher Education. }~~

Existing law sets forth certain days of observance in this State to commemorate certain persons or occasions or to publicize information regarding certain important topics. (Chapter 236 of NRS) **Section 32** of this bill requires the Governor to annually proclaim the first week in October to be "Week of Respect."

WHEREAS, Bullying is an aggressive behavior that is associated with violent behaviors such as carrying weapons, fighting, vandalism, theft and suicide; and

WHEREAS, Recent studies showed that 32 percent of children reported being bullied at school and 4 percent of children reported being cyber-bullied during the school year; and

WHEREAS, Children who are bullied are more likely than children who are not bullied to be depressed, lonely and anxious, to have low self-esteem and to contemplate suicide; and

WHEREAS, Research has shown that bullying can be a sign of other antisocial or violent behavior and children who bully other children are more likely to be truant from school or to drop out of school; and

WHEREAS, Acts of bullying create a school environment that negatively impacts the ability of children to learn not only for the children who are the victims of such acts but also for the children who witness those acts; and

WHEREAS, Improving the methods and procedures by which acts of bullying, cyber-bullying, harassment and intimidation are prevented,

reported, investigated and responded to by the State Board of Education, the school districts in this State and the individual schools will help identify such acts and allow children who are the victims of such acts to receive help in dealing with the emotional and physical impacts of bullying, cyber-bullying, harassment and intimidation; now therefore,

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

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

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

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

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

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

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

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

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

(II) ~~{On and after July 1, 2006, the}~~ **The** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term

substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

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

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

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

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

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

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

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

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

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

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

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

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

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

- (I) Paragraph (a) of subsection 1 of NRS 389.805; and
- (II) Paragraph (b) of subsection 1 of NRS 389.805.
- (2) An adjusted diploma.
- (3) A certificate of attendance.
- (bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.
- (cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.
- (dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:
 - (1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and
 - (2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.
- (ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.
- (ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.
- (gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:
 - (1) The number of pupils enrolled in a course of career and technical education;
 - (2) The number of pupils who completed a course of career and technical education;
 - (3) The average daily attendance of pupils who are enrolled in a program of career and technical education;
 - (4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

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

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

(hh) The number of ~~reported violations of NRS 388.135 and a description of each violation,~~ incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, reported for each school district, including, without limitation, each charter school in the district, and for the State as a whole.

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

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

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

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

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

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

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Harassment" has the meaning ascribed to it in NRS 388.125.

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

~~(b)~~ **(e) "Intimidation" has the meaning ascribed to it in NRS 388.129.**

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

Sec. 2. NRS 385.34692 is hereby amended to read as follows:

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

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

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

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

(3) With disabilities;

(4) Who are limited English proficient; and

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

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

(c) The transiency rate of pupils;

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

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

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

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

(2) Possession of a weapon;

(3) Distribution of a controlled substance;

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

(5) Possession or use of alcohol; *and*

(6) Bullying, cyber-bullying, harassment or intimidation;

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

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

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

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

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

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

(1) Standard diploma;

(2) Adult diploma;

(3) Adjusted diploma; and

(4) Certificate of attendance;

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

- (n) Per pupil expenditures;
- (o) Information on the professional qualifications of teachers;
- (p) The average daily attendance of teachers and licensure information;
- (q) Information on the adequate yearly progress of the schools and school districts;

(r) Pupil achievement based upon the:

(1) Examinations administered pursuant to NRS 389.550, including, without limitation, whether public schools have made progress based upon the model adopted by the Department pursuant to NRS 385.3595; and

(2) High school proficiency examination;

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

(t) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

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

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

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

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

(1) Governor;

(2) Committee;

(3) Bureau;

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

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

(6) Governing body of each charter school.

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

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

6. As used in this section:

(a) *"Bullying" has the meaning ascribed to it in NRS 388.122.*

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Harassment" has the meaning ascribed to it in NRS 388.125.

(d) "Intimidation" has the meaning ascribed to it in NRS 388.129.

Sec. 3. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

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

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

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

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

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

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

(10) Information on whether each school in the district, including, without limitation, each charter school in the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

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

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

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

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

(5) For each elementary school:

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

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

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

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

(1) Any special programs for pupils at an individual school; and

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

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

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

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

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

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

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

(3) Withdraw from school to attend another school.

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

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

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

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

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

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

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

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

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

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the

district. For the purposes of this paragraph, a pupil is not transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

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

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

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

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

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

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

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

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

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

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

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for

each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ee) ~~The number of reported violations of NRS 388.135 and a description of each violation,~~ **incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.**

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

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

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

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

4. The annual report of accountability prepared pursuant to subsection 2 must:

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

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

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

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

(6) Legislative Counsel Bureau,

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

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

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

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

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

10. As used in this section:

(a) **"Bullying" has the meaning ascribed to it in NRS 388.122.**

(b) **"Cyber-bullying" has the meaning ascribed to it in NRS 388.123.**

(c) **"Harassment" has the meaning ascribed to it in NRS 388.125.**

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

~~((b))~~ (e) **"Intimidation" has the meaning ascribed to it in NRS 388.129.**

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

Sec. 4. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 18, inclusive, of this act.

Sec. 5. ~~["Anti-bullying school district coordinator" means the person appointed by the board of trustees of each school district pursuant to section 10 of this act.]~~ **(Deleted by amendment.)**

Sec. 6. ~~["Anti-bullying school specialist" means the person appointed by the principal of each public school pursuant to section 11 of this act.]~~ **(Deleted by amendment.)**

Sec. 7. 1. *The Department, in consultation with persons who possess knowledge and expertise in bullying, cyber-bullying, harassment and intimidation in public schools, shall develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils enrolled in the public schools in this State in resolving incidents of bullying, cyber-bullying, harassment or intimidation. The pamphlet must include, without limitation:*

(a) A summary of the policy prescribed by the Department pursuant to NRS 388.133 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act;

(b) A description of practices which have proven effective in preventing and resolving violations of NRS 388.135 in schools, which must include, without limitation, methods to identify and assist pupils who are at risk for bullying, cyber-bullying, harassment or intimidation; and

(c) An explanation that the parent or legal guardian of a pupil who is involved in a reported violation of NRS 388.135 may request an appeal of a disciplinary decision ~~of:~~

~~*(1) The superintendent of schools of a school district concerning a violation of NRS 388.135 to the board of trustees of the school district pursuant to section 15 of this act; and*~~

~~*(2) The board of trustees of a school district to the State Board pursuant to section 16 of this act.]*~~ **made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.**

2. *The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as the Department determines are necessary to ensure the pamphlet contains current information.*

3. *The Department shall post a copy of the pamphlet on the Internet website maintained by the Department.*

4. *To extent the money is available, the Department shall develop a tutorial which must be made available on the Internet website maintained by the Department that includes, without limitation, the information contained in the pamphlet developed pursuant to subsection 1.*

Sec. 8. 1. *The Department, in consultation with persons who possess knowledge and expertise in bullying, cyber-bullying, harassment and intimidation in public schools, shall:*

(a) Establish a program of training on methods to prevent, identify and report incidences of bullying, cyber-bullying, harassment and intimidation in public schools for members of the State Board.

(b) ~~[Establish]~~ Recommend a program of training on methods to prevent, identify and report incidences of bullying, cyber-bullying, harassment and intimidation in public schools for members of the boards of trustees of school districts.

(c) ~~[Establish]~~ Recommend a program of training for ~~[the persons appointed as anti-bullying school specialists and anti-bullying school district coordinators]~~ school district personnel to assist those persons with carrying out their powers and duties pursuant to NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.

2. Each member of the State Board shall, within 1 year after the member is elected or appointed to the State Board, complete the program of training on bullying, cyber-bullying, harassment and intimidation in public schools established pursuant to paragraph (a) of subsection 1 and undergo the training at least one additional time while the person is a member of the State Board.

3. Each member of a board of trustees of a school district ~~[shall, within 1 year after the member is elected or appointed to the board of trustees,]~~ may complete the program of training on bullying, cyber-bullying, harassment and intimidation in public schools ~~[established]~~ recommended pursuant to paragraph (b) of subsection 1 and may undergo the training at least one additional time while the person is a member of the board of trustees.

4. ~~[Each anti-bullying school specialist and anti-bullying school district coordinator shall complete the program of training established pursuant to paragraph (c) of subsection 1 before commencing his or her duties in that position.]~~

~~5.]~~ Each program of training established and recommended pursuant to subsection 1 must, to the extent money is available, be made available on the Internet website maintained by the Department or through another provider on the Internet.

~~[6.]~~ 5. The board of trustees of a school district ~~[shall]~~ may allow ~~[a person appointed as an anti-bullying school specialist or an anti-bullying school district coordinator]~~ school district personnel to attend the program ~~[established]~~ recommended pursuant to paragraph (c) of subsection 1 during regular school hours.

~~[7.]~~ 6. The Department shall review each program of training established and recommended pursuant to subsection 1 on an annual basis to ensure that the program contains current information concerning the prevention of bullying, cyber-bullying, harassment and intimidation.

Sec. 9. 1. The Bullying Prevention Fund is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants from any source for deposit into the Fund. The interest and income earned on the money in the Fund must be credited to the Fund.

2. In accordance with the regulations adopted by the State Board pursuant to section 18 of this act, a school district that applies for and receives a grant of money from the Bullying Prevention Fund shall use the money for one or more of the following purposes:

(a) The establishment of programs to create a school environment that is free from bullying, cyber-bullying, harassment and intimidation;

(b) The provision of training on the policies adopted by the school district pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act; or

(c) The development and implementation of procedures by which the public schools of the school district and the pupils enrolled in those schools can discuss the policies adopted pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.

Sec. 10. ~~{1. The board of trustees of each school district shall appoint an employee of the school district to serve as the anti-bullying school district coordinator.~~

~~2. The anti-bullying school district coordinator shall:~~

~~(a) Coordinate and improve the policies adopted by the school district pursuant to NRS 388.134 to prevent, identify and address reported violations of NRS 388.135 in the public schools within the school district;~~

~~(b) Collaborate with each anti-bullying school specialist in the school district, the board of trustees of the school district, the superintendent of schools of the school district and the school safety team to prevent, identify and address reported violations of NRS 388.135;~~

~~(c) Assist the principals and anti-bullying school specialists at the public schools within the school district with investigations of reported violations of NRS 388.135 which are conducted pursuant to section 14 of this act;~~

~~(d) Assist the board of trustees of the school district with investigations which are necessary to prepare for hearings held pursuant to section 15 of this act;~~

~~(e) In consultation with the superintendent of schools of the school district, provide data to the Department regarding reported violations of NRS 388.135 in the public schools within the school district;~~

~~(f) Perform any other duties required by the board of trustees of the school district regarding bullying, cyber-bullying, harassment and intimidation in the public schools within the school district; and~~

~~(g) Meet with each anti-bullying school specialist within the school district at least two times each year to discuss and strengthen the policies adopted by the school district pursuant to NRS 388.134 to prevent, identify and address bullying, cyber-bullying, harassment and intimidation in the public schools within the school district.}] **(Deleted by amendment.)**~~

Sec. 11. ~~{1. The principal of each public school [shall appoint a school counselor, school psychologist or other person who is similarly qualified and who is currently employed at the school to serve as the~~

~~anti-bullying school specialist. If the public school does not currently employ a school counselor, school psychologist or other person who is similarly qualified, the principal shall appoint another school employee to serve as the anti-bullying school specialist.~~

~~2. The anti-bullying school specialist~~ or his or her designee shall:

~~f (a) Serve as the chair of the~~

1. Establish a school safety team ~~established pursuant to section 12 of this act;~~

~~(b) to develop, foster and maintain a school environment which is free from bullying, cyber-bullying, harassment and intimidation;~~

2. Conduct investigations of violations of NRS 388.135 occurring at the school; and

~~f(e) 3. Collaborate with the anti-bullying board of trustees of the school district coordinator and the school safety team to prevent, identify and address reported violations of NRS 388.135 at the school.~~

Sec. 12. 1. Each ~~public school shall establish a school safety team to develop, foster and maintain a school environment which is free from bullying, cyber-bullying, harassment and intimidation. The~~ school safety team established pursuant to section 11 of this act must consist of the principal or his or her designee and the following persons appointed by the principal:

~~(a) The anti-bullying school specialist;~~ A school counselor;

~~(b) At least one teacher who teaches at the school;~~

~~(c) At least one parent or legal guardian of a pupil enrolled in the school; and~~

~~(d) Any other persons appointed by the principal.~~

2. The ~~anti-bullying school specialist~~ principal or his or her designee shall serve as the chair of the school safety team.

3. The school safety team shall:

~~(a) Meet at least two times each year;~~

~~(b) Review any reported violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled in the school;~~

~~(c) Review any reports of the results of investigations conducted into reported violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled in the school;~~

~~(d) Identify and address patterns of bullying, cyber-bullying, harassment or intimidation at the school;~~

~~f(e) (c) Review and strengthen school policies to prevent and address bullying, cyber-bullying, harassment or intimidation;~~

~~f(f) (d) Provide information to school personnel, pupils enrolled in the school and parents and legal guardians of pupils enrolled in the school on methods to address bullying, cyber-bullying, harassment and intimidation;~~

~~f(g) Participate~~ and

(e) To the extent money is available, participate in any training conducted by the school district regarding bullying, cyber-bullying, harassment and intimidation. ~~f.~~

~~(h) Collaborate with the anti-bullying school district coordinator and the anti-bullying school specialist to collect data and develop policies to prevent and address bullying, cyber-bullying, harassment and intimidation in the public schools; and~~

~~(i) Perform any other duties related to bullying, cyber-bullying, harassment and intimidation at the request of the principal or the anti-bullying school district coordinator.~~

~~4. A school safety team shall maintain the confidentiality of any information received by the school safety team which contains personally identifiable information about an individual pupil.]~~

Sec. 13. 1. On or before January 1 and June 30 of each year, the principal of each public school shall submit to the board of trustees of the school district ~~[and the school safety team established pursuant to section 12 of this act]~~ a report on the violations of NRS 388.135 which are reported during the previous school semester. The report must include, without limitation:

(a) The number of violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled at the school which are reported during that period; and

(b) ~~[The status of any investigation into reported violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled at the school during that period;~~

~~(c) The names and titles, if any, of the persons who are investigating the reported violations of NRS 388.135;~~

~~(d) The result of each investigation into a reported violation of NRS 388.135 and any disciplinary measures which are imposed against a pupil or employee as a result of the investigation; and~~

~~(e) Any ~~[other]~~ actions taken at the school to reduce the number of incidences of bullying, cyber-bullying, harassment and intimidation, including, without limitation, training that was offered or other policies, practices and programs that were implemented.~~

2. The board of trustees of each school district shall review and compile the reports submitted pursuant to subsection 1 and, on or before August 1, submit a compilation of the reports to the Department.

~~f. 3. The Department shall review each report submitted pursuant to subsection 2 and assign a grade to each school district and each public school within the school district in accordance with the regulations adopted by the State Board.~~

~~4. A grade assigned to a school district pursuant to subsection 3 must be based upon:~~

~~(a) The average of all grades assigned to the public schools within the school district; and~~

~~(b) The ability and progress made by the school district in implementing policies, practices and programs that aid in the prevention of bullying, cyber bullying, harassment and intimidation in the public schools within the school district.~~

~~5. A grade assigned to a school pursuant to subsection 3 must be based upon the ability and progress made by the school in implementing policies, practices and programs that aid in the prevention of bullying, cyber bullying, harassment and intimidation at the school.~~

~~6. Not later than 10 days after a grade is assigned to a school district, the board of trustees of the school district shall post on the Internet website maintained by the school district:~~

~~(a) The grade assigned to the school district and each public school within the school district pursuant to this section; and~~

~~(b) The report prepared pursuant to subsection 1.~~

~~7. Each public school shall post the grade assigned to the school pursuant to this section on the Internet website maintained by the school, if any.~~

~~8. Each report prepared and posted pursuant to this section must not disclose any personally identifiable information about an individual pupil.~~

Sec. 14. 1. A teacher or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall ~~f~~

~~(a) Verbally~~ verbally report the violation to the principal or his or her designee on the day on which the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation. ~~f~~ and

~~(b) Submit a written report of the violation to the principal not later than 2 days after the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation.~~

~~2. Upon receipt of the notice pursuant to subsection 1 or, if the principal witnesses a violation of NRS 388.135 or receives information of such a violation, the principal shall provide written notice of a reported violation of NRS 388.135 to the parent or legal guardian of each pupil involved, which must include, without limitation, a statement that the principal will be conducting an investigation into the reported violation and that the parent or legal guardian may discuss with the principal or the anti-bullying school specialist any counseling and intervention services that are available to the pupils.~~

~~3.~~ 2. The principal or his or her designee shall initiate an investigation not later than 1 day after receiving ~~the written report~~ notice of the violation ~~f~~ pursuant to subsection 1. The investigation must ~~f~~

~~(a) Be conducted by the anti-bullying school specialist and any additional school personnel appointed by the principal to assist in the investigation; and~~

~~(b) Be~~ **be completed within 10 days after the date on which the investigation is initiated** ~~f.~~

~~4. Upon completion of an investigation, the anti-bullying school specialist shall submit a written report of the results of the investigation to the principal. The anti-bullying school specialist may amend the written report if the anti-bullying school specialist receives additional information concerning the violation after the initial report is submitted to the principal.~~

~~5. Upon receipt of the written report submitted pursuant to subsection 4, the principal shall review the written report not later than 5 days after receipt of the report and submit the report to the superintendent of schools of the school district which includes the specific actions that will be taken as a result of the investigation and any recommendations concerning the imposition of disciplinary actions or other measures.~~

~~6. Upon receipt of the written report submitted pursuant to subsection 5, the superintendent of schools of the school district shall:~~

~~(a) Issue a decision in writing to affirm, reject or modify the recommendations of the principal contained in the written report; and~~

~~(b) Provide written notice of the results of the investigation to the board of trustees of the school district and to the parent or legal guardian of each pupil involved in the reported violation of NRS 388.135, which must include, without limitation, the specific actions that will be taken as a result of the investigation.~~

~~7.7~~ **and, if a violation is found to have occurred, include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.**

3. The parent or legal guardian of a pupil involved in the reported violation of NRS 388.135 may appeal ~~the~~ a disciplinary decision of the ~~superintendent of schools to the board of trustees of the school district pursuant to section 15 of this act.~~ principal or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

~~Sec. 15. 1. Upon receipt of the written notice provided pursuant to subsection 6 of section 14 of this act, the parent or legal guardian of a pupil involved in a reported violation of NRS 388.135 may request a hearing on the matter by the board of trustees of the school district in accordance with the procedure prescribed pursuant to subsection 6.~~

~~2. The anti-bullying school district coordinator shall assist the board of trustees of the school district with any investigation that is necessary to prepare for a hearing conducted pursuant to this section. In conducting the investigation, the anti-bullying school district coordinator may request the assistance of the anti-bullying school specialist assigned for the school at which the reported violation occurred.~~

~~3.— The board of trustees of the school district shall hold the hearing not later than 45 days after receipt of the request. The provisions of chapter 241 of NRS do not apply to a hearing conducted pursuant to this section. Such hearings must be closed to the public. Upon completion of the hearing, the board of trustees shall issue a decision in writing to affirm, reject or modify the recommendations of the superintendent of schools of the school district contained in the written report.~~

~~4.— The board of trustees of a school district shall submit a report of the results of the hearing and the board's decision to the:~~

~~(a) The Department;~~

~~(b) Principal of each school in which the pupils involved in the reported violation of NRS 388.135 are enrolled; and~~

~~(c) Parents or legal guardians of the pupils involved in the reported violation of NRS 388.135.~~

~~5.— The parent or legal guardian of a pupil involved in the reported violation of NRS 388.135 may appeal the decision of the board of trustees of the school district to the State Board.~~

~~6.— The board of trustees of each school district shall:~~

~~(a) Prescribe a procedure for a parent or legal guardian of a pupil involved in a reported violation of NRS 388.135 to request a hearing by the board of trustees pursuant to this section, including, without limitation, the time period within which such a request must be made for timely consideration of the matter; and~~

~~(b) Provide a link to the procedure on its Internet website where the policy adopted by the school district pursuant to NRS 388.134 is posted.] (Deleted by amendment.)~~

~~Sec. 16. [1.— If the State Board determines that sufficient grounds exist for an appeal requested by a parent or legal guardian of a decision of the board of trustees of a school district pursuant to section 15 of this act, the State Board shall hold the hearing not later than 45 days after receipt of the request. The provisions of chapter 241 of NRS do not apply to a hearing conducted pursuant to this section. Such hearings must be closed to the public. Upon completion of the hearing, the State Board shall issue a decision in writing to affirm, reject or modify the decision of the board of trustees of the school district.~~

~~2.— The State Board shall submit a report of the results of the hearing and its decision to the:~~

~~(a) Board of trustees of the school district whose decision was appealed;~~

~~(b) Principal of each school in which the pupils involved in the reported violation of NRS 388.135 are enrolled; and~~

~~(c) Parents or legal guardians of the pupils involved in the reported violation of NRS 388.135.] (Deleted by amendment.)~~

Sec. 17. The board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district,

shall establish a policy for the procedures which must be followed by an employee of the school district when reporting a violation of NRS 388.135 to a school police officer or local law enforcement agency.

Sec. 18. *The State Board shall adopt regulations:*

1. Establishing the process whereby school districts may apply to the State Board for a grant of money from the Bullying Prevention Fund pursuant to section 9 of this act.

~~*2. Prescribing the procedure for a parent or legal guardian of a pupil involved in a reported violation of NRS 388.135 to request an appeal of a decision of the board of trustees of a school district pursuant to section 16 of this act to the State Board, including, without limitation, the time period within which such a request must be made for timely consideration of the matter.*~~

~~*3. Prescribing the procedure for complying with the requirements of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act if a reported violation of NRS 388.135 involves pupils enrolled at different schools.*~~

~~*4. As are necessary to carry out the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.*~~

Sec. 19. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.139, inclusive, **and sections 5 to 18, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 388.122 to 388.129, inclusive, ~~and sections 5 and 6 of this act~~ have the meanings ascribed to them in those sections.

Sec. 20. NRS 388.122 is hereby amended to read as follows:

388.122 "Bullying" means a willful act **which is written, verbal or physical**, or a course of conduct on the part of one or more ~~pupils~~ **persons** which is not authorized by law and which exposes a ~~pupil~~ **person one time or** repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and ~~is~~ :

1. Is intended to cause ~~and~~ or actually causes the ~~pupil~~ person to suffer harm or serious emotional distress ~~;~~ ;

2. Places the person in reasonable fear of harm or serious emotional distress; or

3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Sec. 21. NRS 388.125 is hereby amended to read as follows:

388.125 "Harassment" means a willful act **which is written, verbal or physical**, or a course of conduct that is not otherwise authorized by law ~~and~~ is:

~~1. Highly~~ **, is highly** offensive to a reasonable person ~~;~~ and

~~2. Intended~~ :

1. Is intended to cause ~~and~~ or actually causes another person to suffer serious emotional distress ~~;~~ ;

2. Places a person in reasonable fear of harm or serious emotional distress; or

3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Sec. 22. NRS 388.129 is hereby amended to read as follows:

388.129 "Intimidation" means a willful act **which is written, verbal or physical**, or a course of conduct that is not otherwise authorized by law {and: 1.—Is}, is highly offensive to a reasonable person {;} and {2.—Poses} :

1. Poses a threat of immediate harm or actually inflicts harm to another person or to the property of another person {;} ;

2. Places a person in reasonable fear of harm or serious emotional distress; or

3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Sec. 23. ~~NRS 388.133 is hereby amended to read as follows:~~

~~388.133 1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation.~~

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

~~(a) The name and contact information for each anti-bullying school district coordinator for each school district.~~

~~(b) Requirements and methods for reporting violations of NRS 388.135 {; and~~

~~(b)} which must:~~

~~(1) Authorize a pupil to report a violation of NRS 388.135 anonymously;~~

~~(2) Set forth the actions that a principal may take against a pupil if the principal determines that a pupil intentionally makes a false report of a violation of NRS 388.135;~~

~~(c) The measures that the principal and anti-bullying school specialist must implement to respond to a reported violation of NRS 388.135, which may include, without limitation, counseling and support services or other programs to reduce bullying, cyber-bullying, harassment or intimidation within the school.~~

~~(d) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:~~

~~(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of bullying, cyber-bullying,~~

~~harassment and intimidation so that pupils may realize their full academic and personal potential;~~

~~(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; [and]~~

~~(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior [-];~~

~~(4) Training in the prevention of suicide, including, without limitation, the relationship between the risk of suicide and a pupil who is bullied, cyber bullied, harassed or intimidated; and~~

~~(5) Methods to reduce the risk of suicide in pupils.] **(Deleted by amendment.)**~~

Sec. 24. NRS 388.134 is hereby amended to read as follows:

388.134 The board of trustees of each school district shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The board of trustees may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520.

3. ~~{On or before September 1 of each year, submit a report to the Superintendent of Public Instruction that includes a description of each violation of NRS 388.135 occurring in the immediately preceding school year that resulted in personnel action against an employee or suspension or expulsion of a pupil, if any.} *Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district. [-, including, without limitation, the name and contact information of the anti-bullying school district coordinator.]*~~

4. *Ensure that the parents and legal guardians of pupils enrolled in the school district have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the policies.*

5. ~~*{In consultation with the anti-bullying school district coordinator and the anti-bullying school specialists, review}*~~ ***Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the board of trustees of a school district updates the policies, the board of trustees must submit a copy of the updated policies to the Department within 30 days after the update.***

Sec. 25. NRS 388.1345 is hereby amended to read as follows:

388.1345 The Superintendent of Public Instruction shall:

1. Compile the reports submitted pursuant to ~~[NRS 388.134]~~ **section 13 of this act** and prepare a written report of the compilation.

2. On or before October 1 of each year, submit the written compilation to the Attorney General.

Sec. 26. NRS 388.139 is hereby amended to read as follows:

388.139 Each school district shall include the text of the provisions of NRS 388.121 to 388.135, inclusive, **and sections 5 to 18, inclusive, of this act** and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading "Bullying, Cyber-Bullying, Harassment and Intimidation Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Sec. 27. ~~[Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. On or after January 1, 2013, each applicant for an initial license to teach must submit with the application proof of the completion of a course in the prevention of bullying, cyber-bullying, harassment or intimidation in schools.~~

~~2. Except as otherwise provided in subsection 3, a licensed teacher who submits an application for renewal of his or her license to teach on or after January 1, 2013, shall submit with the application proof of the completion of a course in the prevention of bullying, cyber-bullying, harassment or intimidation in schools.~~

~~3. A licensed teacher is not required to submit proof of the completion of a course pursuant to subsection 2 if the teacher has previously completed such a course and filed proof of the completion with the Superintendent of Public Instruction.~~

~~4. The Commission shall adopt regulations that prescribe:~~

~~(a) The required contents of a course in the prevention of bullying, cyber-bullying, harassment or intimidation which must be completed pursuant to this section; and~~

~~(b) The number of credits which must be earned by the applicant or licensed teacher in a course in the prevention of bullying, cyber-bullying, harassment or intimidation.~~

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

~~(a) "Bullying" has the meaning ascribed to it in NRS 388.122.~~

~~(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.~~

~~(c) "Harassment" has the meaning ascribed to it in NRS 388.125.~~

~~(d) "Intimidation" has the meaning ascribed to it in NRS 388.129.]~~

(Deleted by amendment.)

Sec. 28. NRS 391.312 is hereby amended to read as follows:

391.312 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

(a) Inefficiency;

- (b) Immorality;
- (c) Unprofessional conduct;
- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;
- (i) Inadequate performance;
- (j) Evident unfitness for service;
- (k) Failure to comply with such reasonable requirements as a board may prescribe;
- (l) Failure to show normal improvement and evidence of professional training and growth;
- (m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
- (n) Any cause which constitutes grounds for the revocation of a teacher's license;
- (o) Willful neglect or failure to observe and carry out the requirements of this title;
- (p) Dishonesty;
- (q) Breaches in the security or confidentiality of the questions and answers of the achievement and proficiency examinations that are administered pursuant to NRS 389.015;
- (r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations adopted pursuant to NRS 389.616 or 389.620; ~~for~~
- (s) An intentional violation of NRS 388.5265 or 388.527 ~~for~~; **or**
- (t) An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.**

2. ~~In addition to the reasons identified in subsection 1, a principal may be demoted, suspended, dismissed or not reemployed if the principal:~~

~~(a) Intentionally fails to initiate or conduct an investigation into a reported violation of NRS 388.135 as required pursuant to section 14 of this act; or~~

~~(b) Reasonably should have known of a violation of NRS 388.135 and failed to take appropriate action.~~

~~3-7~~ In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

Sec. 29. ~~NRS 391.3161 is hereby amended to read as follows:~~

~~391.3161 1. Each request for the appointment of a person to serve as a hearing officer must be submitted to the Superintendent of Public Instruction.~~

~~2. Within 10 days after receipt of such a request, the Superintendent of Public Instruction shall request that the Hearings Division of the Department of Administration appoint a hearing officer.~~

~~3. The State Board shall prescribe the procedures for exercising challenges to a hearing officer, including, without limitation, the number of challenges that may be exercised and the time limits in which the challenges must be exercised.~~

~~4. A hearing officer shall conduct hearings in cases of demotion, dismissal or a refusal to reemploy based on the grounds contained in subsection 1 or 2 of NRS 391.312.~~

~~5. This section does not preclude the employee and the superintendent from mutually selecting an attorney who is a resident of this State, an arbitrator provided by the American Arbitration Association or a representative of an agency or organization that provides alternative dispute resolution services to serve as a hearing officer to conduct a particular hearing.] (Deleted by amendment.)~~

~~Sec. 30. [Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Legislature hereby encourages each private school to adopt policies and programs consistent, to the extent applicable, with the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act, to prevent bullying, cyber-bullying, harassment or intimidation at private schools.~~

~~2. As used in this section:~~

~~(a) "Bullying" has the meaning ascribed to it in NRS 388.122.~~

~~(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.~~

~~(c) "Harassment" has the meaning ascribed to it in NRS 388.125.~~

~~(d) "Intimidation" has the meaning ascribed to it in NRS 388.129.]~~

~~(Deleted by amendment.)~~

~~Sec. 31. [Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Board of Regents may adopt a policy to provide a safe and respectful learning environment that is free from bullying, cyber-bullying, harassment and intimidation. The policy may include, without limitation:~~

~~(a) A statement which prohibits bullying, cyber-bullying, harassment and intimidation at a university, state college or community college within the System;~~

~~(b) The definition of bullying, cyber-bullying, harassment and intimidation consistent, to the extent applicable, with the definitions set forth in NRS 388.122, 388.123, 388.125 and 388.129, respectively; and~~

~~(c) The disciplinary measures which the Board of Regents may take against a student or employee of the System who is found to have bullied, cyber-bullied, harassed or intimidated another student or employee.~~

~~2. If a policy is adopted pursuant to subsection 1:~~
~~(a) The policy must be included within each copy of the code of conduct that a university, state college or community college within the System provides to students.~~
~~(b) Each university, state college and community college within the System shall post the policy on the Internet website maintained by the university, state college or community college.]~~ **(Deleted by amendment.)**

Sec. 32. Chapter 236 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Governor shall annually proclaim the first week in October to be "Week of Respect."

2. The proclamation may call upon:

(a) News media, educators and appropriate government offices to bring to the attention of the residents of Nevada factual information regarding bullying, cyber-bullying, harassment and intimidation in schools, including, without limitation:

(1) Statistical information regarding the number of pupils who are bullied, cyber-bullied, harassed or intimidated in schools each year;

(2) The methods to identify and assist pupils who are at risk of bullying, cyber-bullying, harassment or intimidation; and

(3) The methods to prevent bullying, cyber-bullying, harassment and intimidation in schools; and

(b) School districts to provide instruction on the ways in which pupils can prevent bullying, cyber-bullying, harassment and intimidation during the Week of Respect and throughout the school year that is appropriate for the grade level of pupils who receive the instruction.

3. As used in this section:

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Harassment" has the meaning ascribed to it in NRS 388.125.

(d) "Intimidation" has the meaning ascribed to it in NRS 388.129.

Sec. 33. ~~††~~ On or before December 31, 2011, the State Board of Education shall adopt the regulations required by section 18 of this act.

~~† 2. On or before December 31, 2011, the Commission on Professional Standards in Education shall adopt the regulations required by section 27 of this act.]~~

Sec. 34. ~~[The provisions of subsection 2 of section 27 of this act apply to each licensed teacher regardless of the date on which his or her initial license was issued.]~~ **(Deleted by amendment.)**

Sec. 35. This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 469 makes numerous changes to Senate Bill No. 276. The amendment revises provisions governing the reporting and investigation process, and changes the appeals procedures for parents concerning violations of the safe and respectful learning environment. Under the amendment, training related to the program is to be made available, but is not required. The amendment also requires the establishment of school safety teams and specifies the principal as the person responsible for investigating reported incidents of bullying, cyber-bullying, harassment, and intimidation at the school. Various provisions are deleted including those concerning the grading of schools based upon prevention policies; sections concerning disciplinary actions for school personnel; provisions concerning private schools and higher education; and education-related licensing requirements, among others.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 283.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 348.

"SUMMARY—~~[Revises provisions governing the appointment of]~~
Requires counsel **appointed** for a postconviction petition for habeas corpus in which the petitioner has been sentenced to death ~~to~~ **to complete certain continuing legal education requirements.** (BDR 3-1059)"

"AN ACT relating to postconviction relief; ~~[revising provisions governing the appointment of]~~ **requiring** counsel **appointed** for a postconviction petition for habeas corpus in which the petitioner has been sentenced to death ~~to~~ **to complete certain continuing legal education requirements;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that if a person who has been sentenced to death files a postconviction petition for habeas corpus to challenge the validity of the person's conviction or sentence, and the petition is the first petition for habeas corpus that challenges such validity, the court is required to: (1) appoint counsel to represent the petitioner; and (2) stay execution of the judgment pending the disposition of the petition and appeal. (NRS 34.820)

~~† The Supreme Court of the United States has held that states are not required to provide counsel in postconviction proceedings. (Pennsylvania v. Finley, 481 U.S. 551, 556-57 (1987)) The Court has also specified that this holding applies to both capital and noncapital cases. (Murray v. Giarattano, 492 U.S. 1, 10 (1989)) This bill provides that when the first postconviction petition for habeas corpus is filed by a petitioner who has been sentenced to death, the court is not required to but may appoint counsel to represent the petitioner.†~~

This bill requires such counsel appointed to represent the petitioner to: (1) have completed, within the previous 2 years preceding the date of appointment, at least 10 hours of continuing legal education specifically regarding postconviction petitions for writs of habeas corpus in capital cases; and (2) complete at least 5 hours of continuing legal education

specifically regarding postconviction petitions for writs of habeas corpus in capital cases for each 12-month period following the date of appointment in which they continue to represent the petitioner pursuant to the appointment.

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

Section 1. NRS 34.820 is hereby amended to read as follows:

34.820 1. If a petitioner has been sentenced to death and the petition is the first one challenging the validity of the petitioner's conviction or sentence, the court shall:

(a) ~~Appoint~~ [≠]

~~(a) May appoint~~ counsel to represent the petitioner ; ~~[pursuant to NRS 34.750,]~~ and

(b) ~~Stay~~ ~~[Shall stay]~~ execution of the judgment pending disposition of the petition and the appeal.

2. **Counsel appointed to represent the petitioner pursuant to subsection 1:**

(a) Must have completed, within the previous 2 years preceding the date of appointment, at least 10 hours of continuing legal education on the specific subject of postconviction petitions for writs of habeas corpus in capital cases; and

(b) Shall complete, in addition to the continuing legal education required pursuant to paragraph (a), at least 5 hours of continuing legal education on the specific subject of postconviction petitions for writs of habeas corpus in capital cases for each 12-month period following the date of appointment in which counsel continues to represent the petitioner pursuant to the appointment.

3. The petition must include the date upon which execution is scheduled, if it has been scheduled. The petitioner is not entitled to an evidentiary hearing unless the petition states that:

(a) Each issue of fact to be considered at the hearing has not been determined in any prior evidentiary hearing in a state or federal court; or

(b) For each issue of fact which has been determined in a prior evidentiary hearing, the hearing was not a full and fair consideration of the issue. The petition must specify all respects in which the hearing was inadequate.

~~13-1~~ 4. If the petitioner has previously filed a petition for relief or for a stay of the execution in the same court, the petition must be assigned to the judge or justice who considered the previous matter.

~~14-1~~ 5. The court shall inform the petitioner and the petitioner's counsel that all claims which challenge the conviction or imposition of the sentence must be joined in a single petition and that any matter not included in the petition will not be considered in a subsequent proceeding.

~~15-1~~ 6. If relief is granted or the execution is stayed, the clerk shall forthwith notify the respondent, the Attorney General and the district attorney of the county in which the petitioner was convicted.

~~16-1~~ 7. If a district judge conducts an evidentiary hearing, a daily transcript must be prepared for the purpose of appellate review.

~~17-1~~ 8. The judge or justice who considers a petition filed by a petitioner who has been sentenced to death shall make all reasonable efforts to expedite the matter and shall render a decision within 60 days after submission of the matter for decision.

Sec. 2. ~~[The amendatory provisions of this act apply to a petition that is filed on or after October 1, 2011.]~~ **This act becomes effective on January 1, 2012.**

Senator Copeney moved the adoption of the amendment.

Remarks by Senator Copeney.

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

Amendment No. 348 reinstates the requirement that the court shall appoint counsel to represent the petitioner and stay the execution pending resolution of the petition and appeal.

It instead requires that counsel appointed to represent the petitioner must have educational training specific to writs of habeas corpus and capital cases.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 318.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 415.

"SUMMARY—Establishes provisions governing permissible flammability of certain components in school buses. (BDR 34-781)"

"AN ACT relating to motor vehicles; establishing provisions **for new school buses purchased on and after July 1, 2014,** governing the permissible flammability of occupant seating ~~(in school buses)~~ and plastic components contained within the engine compartments of **the** school buses; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes safety standards for school buses by setting forth the required condition and equipment of those school buses. Under existing law, it is a misdemeanor to violate a provision of law relating to the safety of school buses. (NRS 392.400, 392.410, 394.190) This bill provides that ~~from and after January 1, 2014,~~ **new** school buses **which are purchased on and after July 1, 2014,** must meet certain enumerated standards relating to: (1) the flammability of occupant seating; and (2) the flammability of plastic components contained within the engine compartment.

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

On and after January 1, 2014, with respect to any new school bus which is purchased ~~for use~~ by a school district to transport pupils, the school

bus must meet the following standards in addition to being equipped as required by the regulations of the State Board:

1. Occupant seating within the school bus must be tested in accordance with ~~the~~ either:

(a) The ASTM International Standard ASTM E1537, "Standard Test Method for Fire Testing of Upholstered ~~Furniture.~~" Such Furniture"; or

(b) The School Bus Seat Upholstery Fire Block Test established by the National School Transportation Specifications and Procedures adopted at the most recent National Congress on School Transportation.

2. For the purposes of subsection 1, such testing must be conducted on a complete seat assembly inside a test room or school bus ~~[. For the purposes of this subsection.]~~, and occupant seating shall be deemed to have failed the ASTM E1537 test or Fire Block Test, as applicable, if:

(a) The seat assembly exhibits a weight loss of 3 pounds or greater during the first 10 minutes of the test; or

(b) The seat assembly exhibits a heat release rate of 80 kilowatts or greater.

~~[2.]~~ 3. Each plastic component contained in the engine compartment of ~~the~~ a new school bus which is purchased by a school district on and after July 1, 2014, to transport pupils must meet a V-0 classification when tested in accordance with the Underwriters Laboratories Inc. Standard 94, "the Standard for Safety of Flammability of Plastic Materials for Parts in Devices and Appliances testing."

Sec. 2. NRS 392.400 is hereby amended to read as follows:

392.400 1. All vehicles used in the transportation of pupils must be:

(a) In good condition and state of repair.

(b) Well equipped, and must contain sufficient room and seats so that the driver and each pupil being transported have a seat inside the vehicle. Each pupil shall remain seated when the vehicle is in motion.

(c) Inspected semiannually by the Department of Public Safety to ensure that the vehicles are mechanically safe and meet the minimum specifications established by the State Board. The Department of Public Safety shall make written recommendations to the superintendent of schools of the school district wherein any such vehicle is operating for the correction of any defects discovered thereby.

2. If the superintendent of schools fails or refuses to take appropriate action to have the defects corrected within 10 days after receiving notice of them from the Department of Public Safety, the superintendent is guilty of a misdemeanor, and upon conviction thereof may be removed from office.

3. Except as otherwise provided in subsection 4, all vehicles used for transporting pupils must meet the specifications established by regulation of the State Board.

4. ~~{Any}~~ *Except as otherwise provided in this subsection, any* bus which is purchased and used by a school district to transport pupils to and from extracurricular activities is exempt from the specifications adopted by the

State Board if the bus meets the federal safety standards for motor vehicles which were applicable at the time the bus was manufactured and delivered for introduction in interstate commerce. ***On and after January 1, 2014, any new school bus which is purchased ~~for use~~ by a school district to transport pupils must meet the standards set forth in section 1 of this act.***

5. Any person violating any of the requirements of this section is guilty of a misdemeanor.

Sec. 3. NRS 392.410 is hereby amended to read as follows:

392.410 1. Except as otherwise provided in this subsection, every school bus operated for the transportation of pupils to or from school must be equipped with:

(a) A system of flashing red lights of a type approved by the State Board and installed at the expense of the school district or operator. Except as otherwise provided in subsection 2, the driver shall operate this signal:

- (1) When the bus is stopped to unload pupils.
- (2) When the bus is stopped to load pupils.
- (3) In times of emergency or accident, when appropriate.

(b) A mechanical device, attached to the front of the bus which, when extended, causes persons to walk around the device. The device must be approved by the State Board and installed at the expense of the school district or operator. The driver shall operate the device when the bus is stopped to load or unload pupils. The installation of such a mechanical device is not required for a school bus which is used solely to transport pupils with special needs who are individually loaded and unloaded in a manner which does not require them to walk in front of the bus. The provisions of this paragraph do not prohibit a school district from upgrading or replacing such a mechanical device with a more efficient and effective device that is approved by the State Board.

2. A driver may stop to load and unload pupils in a designated area without operating the system of flashing red lights required by subsection 1 if the designated area:

(a) Has been designated by a school district and approved by the Department;

(b) Is of sufficient depth and length to provide space for the bus to park at least 8 feet off the traveled portion of the roadway;

(c) Is not within an intersection of roadways;

(d) Contains ample space between the exit door of the bus and the parking area to allow safe exit from the bus;

(e) Is located so as to allow the bus to reenter the traffic from its parked position without creating a traffic hazard; and

(f) Is located so as to allow pupils to enter and exit the bus without crossing the roadway.

3. In addition to the equipment required by subsection 1 and except as otherwise provided in subsection 4 of NRS 392.400, each school bus must ~~be~~ :

(a) *Be* equipped and identified as required by the regulations of the State Board ~~H~~; and

(b) ~~On~~ ***If the bus is a new bus purchased by a school district on and after January 1, 2014, to transport pupils, meet the standards set forth in section 1 of this act.***

4. The agents and employees of the Department of Motor Vehicles shall inspect school buses to determine whether the provisions of this section concerning equipment and identification of the school buses have been complied with, and shall report any violations discovered to the superintendent of schools of the school district wherein the vehicles are operating.

5. If the superintendent of schools fails or refuses to take appropriate action to correct any such violation within 10 days after receiving notice of it from the Department of Motor Vehicles, the superintendent is guilty of a misdemeanor, and upon conviction must be removed from office.

6. Any person who violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 4. NRS 394.190 is hereby amended to read as follows:

394.190 1. The provisions of NRS 392.400 and 392.410 relating to the condition, equipment and identification of vehicles used for the transportation of pupils apply to private schools.

2. ***On and after January 1, 2014, with respect to any new school bus purchased to transport pupils, the standards for school buses set forth in section 1 of this act apply to private schools.***

3. All such vehicles are subject to inspection at all times by agents and employees of the Department of Motor Vehicles, who shall report any violations discovered thereby to the executive head of the private school.

~~{3-}~~ 4. If the executive head of the private school fails or refuses to take appropriate action to correct any such violation within 10 days after receiving the report from the Department of Motor Vehicles, the executive head is guilty of a misdemeanor.

Sec. 5. This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 415 limits the provisions of the bill to new school buses purchased after January 1, 2014, deleting requirements that would have required retrofitting buses purchased prior to that date. The amendment also provides that occupant seating fire testing may include either the School Bus Seat Upholstery Fire Block Test from the National Transportation Specifications and Procedures or the ASTM test already specified in the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bills Nos. 64, 276 be re-referred to the Committee on Finance.

Motion carried.

The Sergeant at Arms announced that Assemblymen Frierson and Kirner were at the bar of the Senate. Assemblyman Frierson invited the Senate to meet in Joint Session with the Assembly to hear Representative Shelley Berkley.

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

Senate in recess at 5:01 p.m.

IN JOINT SESSION

At 5:06 p.m.

President Krolicki presiding.

The Secretary of the Senate called the Senate roll.

All present except Senator Schneider, who was excused.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President appointed a Committee on Escort consisting of Senator Horsford and Assemblywoman Smith to wait upon the Honorable Shelley Berkley and escort her to the Assembly Chamber.

The Committee on Escort escorted Representative Berkley to the bar of the Assembly.

Representative Berkley delivered her message as follows.

MESSAGE TO THE LEGISLATURE OF NEVADA

SEVENTY-SIXTH SESSION, 2011

Speaker Ocegüera, Majority Leader Horsford, Speaker Pro Tempore Smith, Minority Leader Goicoechea, and Minority Leader Mike McGinness. I thank you very much for giving me the opportunity to speak with you this evening. I know that you are very, very busy right now, and taking time out of your very busy schedules to listen to me is greatly appreciated. I know we have this wonderful tradition of your federal officials coming, one at a time, and speaking to our Legislature. I think it is a lovely tradition, and I hope it continues for many, many years into the future.

I want to acknowledge the guests, in addition to the Assemblymen and State Senators, that are here today. I want to particularly thank the members of our Judiciary for coming over to the Legislative Branch and, of course, the Constitutional Officers. You honor me with your presence tonight. I thank you very much. I would be remiss if I did not personally thank the Governor for taking time from his busy schedule to be here. I appreciate the courtesy very, very much.

Before I begin my remarks, I think it would be very appropriate to acknowledge the men and women from Nevada that are serving in our Armed Forces overseas. I do not believe in a moment of silence or a prayer at this time because everybody acknowledges our fighting men and women in their own way. But I think it is important that the leaders of this great State, since we are here together, acknowledge the extraordinary work that our Armed Forces do every day for the rest of us.

I also would be remiss if I didn't acknowledge the passing of President Glick. It is a most unfortunate loss, not only for University of Nevada Reno, but for higher education, education in general, and for the entire state of Nevada. He will be sorely missed, and I am very sorry that he is gone.

I have been your representative in Congress for 13 years now. I first spoke with you as a member of Congress 13 years ago. It has been 28 years since I served as an Assemblywoman in this body. I sat right over there where Ms. Flores is sitting, and I had my seven-month-old son Max with me. Now, like most people, I tell time by the birth of my children and their ages. Max is now 28 years old, and we are waiting for word that he passed the bar, ladies and gentlemen of the judiciary. I am most anxious to get him off my payroll and on to someone else's.

Because I am a colleague in fashion, because we are all public servants here, and because I have served in this body, I fully appreciate and respect the work that you are doing. These are not easy times, and you are doing amazing work in a very, very short period of time. I understand the challenges that are facing all of us throughout our nation, and particularly here in our beloved State of Nevada.

We have the highest unemployment rate in the country. We have the highest mortgage foreclosure rate in the country. People who never missed a day of work have lost their jobs. People that have never missed a monthly mortgage payment are losing their homes. They are looking to us for help or suggestions or solutions, and as public officials and leaders of this State and this nation, it is our obligation to do exactly that.

For me, the single most important issue right now is jobs, jobs, jobs. There is nothing more important than getting our economy moving and getting our fellow citizens back to work. We need to get our fiscal house in order, and we need to prepare for our nation's future.

There are three issues, in my mind, that are essential to accomplishing these goals: education, infrastructure, energy independence. I would like to spend a couple of minutes on each of those items, if I may.

Education—most of the people in this room know me well, but for those that don't, let me tell you of my own history. My father has a ninth grade education; my mother graduated high school. But in our family, they knew that the difference between success and failure was that their children got a good education. When I was growing up, my parents did not care if I was pretty or popular—I would like to think I was both—but they cared that I got good grades. I am the first person in my family to go to college, and if it was not for the university and community college system here in this great State, I guarantee that I would not be standing here in front of you today. I know that my story is not dissimilar to so many people sitting here as well. I see so many of us that either graduated from University of Nevada Las Vegas, University of Nevada Reno, the community college system, or at the very least took classes at one of our community colleges.

Our Nevada children are no longer competing with students from Missouri and Minnesota and Montana. Our children are competing with the Indians and children from China, who are investing in their future by investing billions of dollars in their education system. Low taxes, which we are very proud of in this State; good weather; and good location in the western United States are no longer enough to attract industry and new business to our State.

If we are going to diversify our economy, which we must—we have been talking about it for 30 years—if we are going to do that, we have to invest in ourselves. Businesses coming to Nevada need and want a well-educated and well-trained workforce. They are not going to come here if we do not deliver that. That is why I fought drastic cuts in Pell Grants and in-job training programs. I could not have gotten through college without grants and scholarships and working on the side, and I suspect that many of the students that go to our universities and community colleges are in the same position today that I was when I was growing up. To take Pell Grants away from students that have all the right abilities to get a good education and make something of themselves, I think, would be a terrible mistake for this country.

Now I am very careful not to criticize the people in this room. I know you spent hours last night—just last night alone—and many, many hours and days and weeks discussing these issues. But in my mind, gutting our education system is shortchanging our children, and almost as important as that, it is undermining our ability to diversify our economy. If we are going to

climb our way out of this economic mess that has not only taken over the State of Nevada in a disproportionately harsh way but the entire country, we are going to need to figure out new ways of doing things.

If I could for a moment wax poetic, our very democracy depends on a well-educated electorate making informed decisions at the ballot box. That well-educated electorate starts with our classrooms, and those classrooms start with adequate funding so that our kids can get the best possible education this state can have.

Infrastructure—this nation has an aging and crumbling infrastructure. It was no accident that the levees did not hold in New Orleans. It was no accident that the bridge collapsed in Minnesota. It was a catastrophic loss of life, and billions and billions of taxpayers' dollars went down the drain and are now being used to fix these infrastructure projects. We are either going to pay now or we are going to pay later, but if we pay now, we actually create an infrastructure that will take this country through the twenty-first century, and we will have something to show for it at the end. In addition to new roads and bridges and dams and levees throughout the United States and here in the State of Nevada, we will also be creating jobs—good paying construction jobs—hundreds of thousands of them so we can get our people back to work. That is the importance of infrastructure.

Renewable energy—we must end our dependence on foreign oil, and there are three reasons why we have to do this. It is an economic necessity. It is an environmental necessity. It is a national security imperative. Nevada has an abundance of sun and wind and geothermal. We could be the epicenter of renewable energy production. We could be a net exporter to the rest of the western United States if we invest our dollars in renewable energy. I believe we can create an entire green economy based on green jobs.

Prior to me serving here in the Nevada Legislature, I was in-house counsel at Southwest Gas Corporation. I know a little bit—a little bit—about energy. We have to diversify our energy options. I am not foolish enough to suggest that we will never be dependent on oil, but certainly we can harness the sun and wind and geothermal to be part of a more diverse energy portfolio.

So when Congress voted to end loan guarantees for solar power projects, I voted no. And the reason I voted no to end these loan guarantees is because it is bad for Nevada. Our State is home to some of the biggest solar energy projects in the United States. If we end these loan guarantees in Washington, the Tonopah solar project, which is just about to get started, will come to a screeching halt. What does that do? Not only don't we create the solar energy that we could use, but we are also going to be losing 600 jobs. The State of Nevada can not afford to lose one job right now. The idea that we would be losing 600 jobs would be an anathema to me, and that is why I voted against ending that loan guarantee program for solar projects. We need it here in the State of Nevada; it is important for our future.

The Department of Energy is working with private energy companies to develop a battery-powered car that can go 300 miles without a charge. They are being tested and being manufactured right here in the United States. If we pull the plug on research and development funding, they are not going to be tested and they are not going to be manufactured here. Now we keep talking about expanding our manufacturing base. We do not manufacture enough things here in the United States. This is tailor made for us, and I guarantee if we end those research and development dollars—if we take away the funding—that these projects are going to maybe dry up here in the United States. I bet dollars to doughnuts the Chinese and the Koreans are going to develop these batteries. And you know what? We are going to be buying these batteries from them. We should not have to do that. Let us keep these research and development dollars.

The owners of a Nevada company that sells and installs energy-efficient products like solar screens and insulation for water heaters came to my office recently. This is what they told me. They said that their business is going gangbusters. They are selling a lot of product, and they are hiring a lot people. But if we end the tax credits for consumers—for people like you and me that want to put solar screens on our windows so that we lower the cost of energy in our homes or if we want to wrap our heating elements and save hundreds of dollars on a monthly basis—if we end those tax credits, their business is going to dry up. They are going to have to close, and they are going to have to lay off all of these workers that they hired. This is the future and this is the future of our State. That is why I fight so hard to keep these tax credits, to make sure that these projects are built, and to make sure that consumers can lower the cost of their monthly energy

bills and keep these businesses local and keep them open. That is why I think it is so important for us to do that.

Energy independence, in my mind, is a national security imperative. It is incomprehensible to me that a super power like the United States of America is so dependent on the Saudis and the Venezuelans and the Nigerians to have our energy needs met. These countries are not our friends. They do not wish us well, and the longer we remain dependent on the Saudis and the Venezuelans and the Nigerians—and so many other countries that are dictatorial terrorist regimes that happen to be sitting on a lot of oil—the worse off this nation is going to be. The sooner we become energy independent—as soon as we harness the sun, wind, geothermal, biomass, and so many other possibilities that we have now—the sooner our children are not going to have to be holding hands with the Saudi royal family pretending they are friends when the reality is they are the biggest exporters of terrorism and the biggest financiers of terrorism on the planet. We are so desperate for that oil that we pretend they are our friends and allies. Shame on us. Let us start moving toward energy independence.

There are a number of issues that we are addressing in our nation's capital, and I would like to share some of them with you. There is a movement afoot to restart Yucca Mountain. If anybody in this room does not know what that means, I will refresh your memory. That means shipping a minimum of 77,000 tons of radioactive, toxic nuclear waste that has a radioactive shelf life of approximately 300 years across 43 states to be buried in a hole in the Nevada desert where we have groundwater issues, seismic activity, and volcanic activity. Now, that cost of reopening Yucca Mountain and using it as a national repository when we can and we do have an alternative of dry cast storage onsite so it does not have to be moved and it is perfectly safe where it is—the very cost of that is \$100 billion. I would suggest to the people in Washington—and we all are interested in lowering our deficit—but if you want to seriously lower the deficit, let us save \$100 billion right off the bat and end Yucca Mountain once and for all.

Medicare—the House passed a bill that I voted against that would end Medicare and replace it with a voucher system. Our most vulnerable citizens would be required to purchase insurance from a private insurance company. What would that mean? Our seniors would be dependent on the whims of the insurance companies. How many among us reach the age of 65 without a preexisting condition? What insurance company is going to insure a senior citizen that has a preexisting condition? And what happens when that voucher outpaces the cost of their health care? Do they remove themselves from their dialysis machine and go quietly away to die?

The estimated cost per senior of moving to a voucher system is \$6,000 a year for that senior. A third of the seniors that we collectively represent in this state—a third of them—are on a fixed income, which means the only income they have is their social security check. From that check, they pay their rent, they pay for their medication, they pay their energy bills and for their food. Where are they going to get \$6,000 to pay for additional health care costs? The health and well-being of our seniors cannot and should not be a partisan issue. It does not matter if we are Republicans or Democrats or Independents; we are all getting old, and we are all going to get sick. What we need to do is fix, not destroy, this nation's Medicare system.

The Ryan budget that I just voted against reopened the doughnut hole. For those of you who do not know, we are trying to make prescription medication affordable for our seniors. If the doughnut hole is reopened, if that legislation becomes law today, 26,000 of our Nevada seniors will pay more for their prescription medication just on day one. That number will increase as time goes on. Why would we want to do this to our senior citizens? Are we really that anxious to balance our budget on the backs of the most vulnerable among us? I don't think so. I do not think anybody here in this room would want to do that.

Social security—I believe we have to protect social security, not privatize it. We have so many of our seniors that depend on it, and frankly, I am not about to entrust Wall Street with our seniors' retirement savings so that they can do to social security what they did to the housing market and bring this nation to the brink of financial disaster. I am not going to do it.

Medicaid—I voted against block granting Medicaid funds to the states. Nevada is already facing a huge shortfall in our budget. This proposal could possibly slash \$6.9 billion in health benefits over the next ten years. If that happens, we would be forced to remove 136 Nevadans from our Medicaid rolls, and we would be closing our nursing homes. That is unacceptable, and I suspect it is unacceptable to everybody in this room.

Veterans—I am the daughter of a World War II veteran. I am the wife of a Vietnam-era veteran. My father served in the Navy. My husband served nine and a half years in the Army. We have a responsibility and an obligation to those that sacrifice much on behalf of the rest of us. A very small percentage of our fellow citizens stand up and answer the call. For those that do, I think when they return, we have an obligation to provide the services—health services, education services, housing services—that we promised them when they left. When they come back, those things need to be assured—that we are there for them as they were there for us.

I could never support legislation that cuts the housing voucher program for our homeless vets. Six hundred Nevada veterans are off the streets and living in housing because they qualified for a housing voucher from the Veteran's Administration (VA). I will not cut that program. There are hundreds more of our fellow Nevadans on the streets tonight that should not be, and we need to fund those programs, not eliminate them. It is that important.

Our veterans wait for much, but what they will not be waiting for much longer is the VA medical complex that is being built in North Las Vegas. It is one of the first new constructions of a VA facility in the United States of America. It is on 147 acres; three buildings, a full service hospital, a long-term care facility, and an outpatient clinic. The VA will be hiring, or is in the process of hiring, a thousand employees to staff those three facilities. It is on time, it is on budget, and in the year 2006, it was the single largest earmark in our federal budget. And no, I am not giving it back.

My friends and colleagues, we have been through a lot together. There are people in this room that I have known for a better part of my life, others that I have admired from afar, others that I worked very closely with, and I have the highest regard for everybody serving, particularly at this most challenging time.

Our nation is facing many challenges. This State certainly is. But I believe our best years are ahead of us. There is no doubt in my mind about that. But the challenge is how do we get from here to there, and this is how I think we should do it: By investing in our future; by empowering the middle class by getting people back to work; by keeping our promises to our seniors and our veterans and our children and getting our fiscal house in order; by harnessing technology and the entrepreneurial spirit that has marked the United States of America, particularly an amazing State in the middle of nowhere—the State of Nevada. If we do these simple things, we will remind ourselves and show the world why the United States is the great nation that we are and that we intend to remain a super power and the great nation that we are and a light on to the other nations for many, many, many generations to come.

I thank each and every one of you for your friendship and your service to the people of the State of Nevada. It is a privilege for me to serve, and it is a privilege for me to speak with you this evening. Thank you very much.

Senator Kihuen moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Berkley for her timely, able and constructive message.

Motion carried.

Senator Halseth moved that the Joint Session be dissolved.

Motion carried.

Joint Session dissolved at 5:37 p.m.

SENATE IN SESSION

At 5:44 p.m.

Senator Parks, Chair of Legislative Operations and Elections, presiding.

Quorum present.

Senator Horsford moved that Senate Bills Nos. 340, 347, 356, 377, 384, 385, 405; Senate Joint Resolution No. 12; Assembly Bills Nos. 18, 147, 156,

217, 464, be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Chair of Legislative Operations and Elections and the Secretary signed Assembly Bill No. 565.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Copening, the privilege of the Floor of the Senate Chamber for this day was extended to Patrice Palmer.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Jason Larsen and KJ Pohe.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Asher Belanger and Alex Belanger.

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to Kimberly Medina.

Senator Horsford moved that the Senate adjourn until Friday, April 22, 2011, at 8 a.m.

Motion carried.

Senate adjourned at 5:45 p.m.

Approved:

DAVID R. PARKS

Chair of Legislative Operations and Elections

Attest: DAVID A. BYERMAN

Secretary of the Senate

THE SEVENTY-FIFTH DAY

CARSON CITY (Friday), April 22, 2011

Senate called to order at 8:13 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Ron Torkelson.

God Almighty,

We say in our Pledge of Allegiance to this Country that we are "One Nation Under God," We print on our money "In God We Trust." I pray this morning that we will not forget that this Country is founded on the trust in a supreme being.

May we also remember that You have entrusted to us the responsibility of directing the business of this State. May we put our trust in You once again and in return may the wisdom You have promised be a gift to these people gathered today.

The decisions made here today and in the future will affect the lives of many people. I pray this will not be forgotten as the business of this day is pursued and I thank You in advance for the success You will give.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 231, 325, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 129, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 12, 83, 250, 348, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 150, 307, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 103, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 158, 223, 226, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 49, 83, 236, 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHIRLEY A. BREEDEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 20, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 150, 318, 329, 403, 477, 535, 551.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 9, 181, 215, 227, 267, 269, 292, 393, 398, 429, 455, 537.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 7.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

COMMUNICATIONS

NEVADA SYSTEM OF HIGHER EDUCATION
BOARD OF REGENTS

April 12, 2011

THE HONORABLE STEPHEN HORSFORD, *Senate Majority Leader*, State of Nevada Senate
Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747

DEAR SENATOR HORSFORD:

On April 8, 2011, the Board of Regents unanimously approved the enclosed resolution urging support for higher education.

The Board of Regents resolved that the Governor and Legislature of the State of Nevada be encouraged to seek additional revenue sources to support our institutions to allow them to fulfill their missions of education, research and public outreach.

Please contact us if you need additional information or would like to discuss this further.

Sincerely,

James Dean Leavitt
Chairman of the Board

Jason Geddes, Ph.D.
Vice Chairman

BOARD OF REGENTS
NEVADA SYSTEM OF HIGHER EDUCATION
RESOLUTION TO ENCOURAGE SUPPORT FOR
HIGHER EDUCATION

WHEREAS, the reduction in funding proposed for Higher Education in the 2011 Executive Budget would cause irreparable damage to the universities, colleges and institutions of the State of Nevada; and

WHEREAS, economic recovery, the economic revitalization of Nevada's economy, and workforce development would be thwarted by implementation of the cuts contemplated by the Executive Budget; and

WHEREAS, the funding shortfall inherent in the Executive Budget cannot be covered by any reasonable increase in tuition and fees or reduction in salaries and wages of Nevada NSHE employees; and

WHEREAS, to avoid irreparable damage to the higher educational institutions of the State of Nevada which would necessarily result as a consequence of the drastic reductions contained in the Executive Budget; now therefore be it

RESOLVED, that on this day, April 8, 2011, by the Board of Regents of the Nevada System of Higher Education, that the Governor and Legislature of the State of Nevada be encouraged to seek additional revenue sources to support our institutions to allow them to fulfill their missions of education, research and public outreach.

James Dean Leavitt
Chairman of the Board

Jason Geddes, Ph.D.
Vice Chairman

WAIVERS AND EXEMPTIONS
NOTICE OF EXEMPTION

April 20, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 347.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole to consider Nevada System of Higher Education Budget, with Senator Horsford as Chair and Senator Leslie as Vice Chair.

Motion carried.

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

Senate in recess at 8:22 a.m.

IN COMMITTEE OF THE WHOLE

At 8:24 a.m.

Senator Horsford presiding.

Consider Nevada System of Higher Education Budget.

The Committee of the Whole was addressed by Senator Horsford; Mark Krmpotic, Senate Fiscal Analyst; Alexander Haartz, Program Analyst; Senator Kieckhefer; Senator Settelmeyer; Senator Hardy; Phillip Satre, Chairman, NV Energy, Chairman, International Gaming Technology, and Director, Nordstrom Incorporated; Kirk V. Clausen, Wells Fargo; Glenn Christensen, Nevada Development Authority; Michael Saltman, Vista Group; Senator Schneider; Beatriz Aguierre, Student, University of Nevada, Reno; Daniel J. Klaich, J.D., Chancellor, Nevada System of Higher Education; Senator Denis; Senator Roberson; Senator Lee; Senator McGinness; Heidi Gansert, Chief of Staff, Office of the Governor; Senator Leslie; Andrew Clinger, Director, Department of Administration; Lisa A. Gianoli, Washoe County; Constance Brooks, Clark County; Ron Knecht, Board of Regents, Nevada System of Higher Education.

SENATOR HORSFORD:

We will hear the Fiscal Staff overview similar to the Committee of the Whole held for the kindergarten through grade 12 education (K-12) budget. Following that, we will hear from the Chair of the Chancellor's Round Table, the Chancellor, Presidents of the Nevada System of Higher Education (NSHE) institutions, representatives from the student body, and the Board of Regents. I intend to have a discussion from this body based on some of the major topic areas in these budgets.

MARK KRMPOTIC (Senate Fiscal Analyst):

Similar to the K-12 presentation, Fiscal Staff will provide a brief overview of the Governor's recommended budget for NSHE over the upcoming biennium. Each member has been provided a document titled, Senate Committee of the Whole Work Session on Governor's Budget Proposal for Higher Education, otherwise known as the Work Session Document.

This document included updated information from the most recent responses provided by NSHE at the request of the Joint Subcommittee on K-12/Higher Education. The System response is contained in the document titled Budget Hearing Follow-up, Responses to the Legislative Council Bureau (LCB) memo, dated March 22, 2011, otherwise known as the NSHE document. This document is in the Nevada Electronic Legislative Information System (NELIS) computer system. There are sections in the Work Session Document referring to the response from NSHE. Alex Haartz, the Higher Education Budget specialist will present the Governor's recommended budget and summary of the responses by NSHE.

ALEXANDER HAARTZ (Program Analyst):

I will be speaking from the Work Session Document. The document is divided into two sections. The first section provides a brief overview of the funding comparison between actions taken by the 2009 75th Legislature to fund NSHE and the Governor's recommended budget for the 2011-2013 biennium. The second part of the document beginning at the bottom of page 3 provides a summary and overview of the information regarding the budget reduction strategies NSHE has presented to the K-12/Higher Education Joint Subcommittee. It includes the projected preliminary impacts that can be determined as a result of the funding levels contained in the *Executive Budget*.

Page 1 of the Work Session Document contains a table giving a biennium to biennium funding comparison. It provides information on the General Fund appropriations approved and the non-General Fund monies authorized by the 2009 75th Legislature.

The first column contains funding in the 2009-2011 approved budget. The second column provides information on the funding levels recommended by the Governor in the *Executive Budget* and the third column indicates the difference between the two.

There has been discussion in the Joint Subcommittee of impact from changes made by the Twenty-sixth Special Session, which is not reflected on page 1 of the Work Session Document. We will discuss those changes in terms of the budget reductions and the impacts. While the first table shows the General Fund appropriation for the 2009 biennium as approximately \$1 billion, the action taken by the Twenty-sixth Special Session was a 6.9 percent budget reduction. Therefore, the General Fund appropriation was reduced to approximately \$955 million over the biennium. The difference between the \$955 million and the \$741 million recommended in the 2011-2013 *Executive Budget* would be approximately \$214 million or a decrease of approximately 22 percent.

Staff notes the tables in the Work Session Document shifts to discussions of budget reductions using the Twenty-sixth Special Session-approved funding level for Fiscal Year (FY) 2010-2011 as a starting point. The NSHE has also consistently used those funding levels as the jumping off point for comparisons they provide in their budget reduction strategies.

The next comparison on page 1 is the concept of governmental support. For purposes of an "apples-to-apples" comparison, governmental support is detailed on page 2 of the Work Session Document, Table 2. For 2009-2011, or the current biennium, governmental support can be thought of as comprising a General Fund appropriation, the federal American Recovery and Reinvestment Act of 2009 (ARRA) funds Nevada received for the State Fiscal Stabilization Fund for Education. The total of the two revenue sources was approximately \$184.8 million. The General Fund appropriation for the 2011-2013 biennium continues. The ARRA funding has ended. However, for the first time, property tax revenues are being included in the budget. The General Fund and property tax revenues combined form the basis for the term "governmental support." From a governmental support standpoint, there is a decrease in funding of approximately \$323 million.

SENATOR HORSFORD:

For clarification, was the ARRA State Fiscal Stabilization Fund for Education money used to replace General Fund support in the 2009 75th Legislative Session? Prior to that session, what was the General Fund or State support for higher education?

MR. HAARTZ:

For what period of time?

SENATOR HORSFORD:

In 2009, NSHE was funded by the legislatively approved governmental basic support. In addition, the one-time ARRA funds were used to replace what would have otherwise been State support. Is that correct?

MR. HAARTZ:

That is correct.

SENATOR HORSFORD:

In the 2009 75th legislatively approved budget, State support was higher than what was approved in 2009 in recognition of the ARRA one-time funding used to help Nevada balance the budget.

MR. HAARTZ:

That is correct. For FY 2008-2009, the 2007 74th Legislature approved approximately \$677 million in General Fund support for NSHE in that fiscal year.

The property tax revenues being considered for NSHE funding and included in the *Executive Budget* represent approximately \$60 million in the first year and approximately \$61 million in the second year of the biennium.

The source of the property tax revenues comes from two sources. The first is the 4 cents per \$100 of assessed valuation operating rate, which is currently being credited to the General Fund. The second source is the 5 cents per \$100 of assessed valuation of capital rate currently being deposited in the Highway Fund and the General Fund. The property tax revenue redirects are only proposed from Washoe and Clark Counties. The remaining county property tax revenues are not included in the Governor's recommended budget. If they were, that would be approximately \$10 million annually of additional property tax revenue if applied across all 17 counties.

A major distinction related to the property tax monies is that the property tax revenue has the effect of offsetting General Fund appropriations. For every \$1 of property tax revenue included in the *Executive Budget*, \$1 of General Fund appropriation is removed. That is different from the ARRA funds which added to the General Fund appropriations approved by the 2009 75th Legislature.

SENATOR HORSFORD:

It has been stated by the Administration that the proposal by the Governor to divert property taxes from Clark and Washoe Counties is being used to replace lost State support funding, not to replace one-time ARRA funding. Is that correct?

MR. HAARTZ:

That is correct. The Twenty-sixth Special Session took two actions related to NSHE budgets. The first was the 6.9 percent General Fund reduction. As approved by the 2009 75th Legislature, the other was replacing ARRA funding. As approved by the 2009 75th Legislature, \$92.4 million in the federal funds was budgeted in each year of the biennium. The Twenty-sixth Special Session moved the FY 2009-2010 funds to FY 2010-2011. The entire \$184.8 million was expended in FY 2009-2010. By moving FY 2010-2011 federal funds to FY 2009-2010, an equal amount of General Fund was removed from FY 2009-2010 and moved into FY 2010-2011. The net effect was that the FY 2010-2011 budget, under which NSHE is currently operating, is entirely supported by the General Fund.

Page 3 of the Work Session Document contains a lengthy table, which provides information on all 26 NSHE State-supported operating budgets. The table begins by listing universities and

colleges followed by the Desert Research Institute (DRI) and the three professional schools. The remaining lines are the other, non-formula operating budgets. This table provides comparisons to assist in understanding the reductions contained in the *Executive Budget* and for which the NSHE preliminary budget reduction plans are based.

The first column lists the 2009 75th legislatively approved General Funds adjusted by the actions of the Twenty-sixth Special Session which provided total funding of approximately \$557.9 million.

The Governor's recommendation in FY 2011-2012, including General Fund and property tax revenue, is approximately \$466 million. The funding for FY 2012-2013 is approximately \$395 million.

We will now move to the second part of the Work Session Document which includes the preliminary budget reduction plans as has been presented by NSHE to the K-12/Higher Education Joint Subcommittee and to the Board of Regents.

SENATOR HORSFORD:

Are there any questions from the Committee on the basic facts as presented?

SENATOR KIECKHEFER:

Regarding the \$557.9 million in FY 2010-2011, does that adjust for the shifting of the ARRA money between FY 2009-2010 and FY 2010-2011? Testimony seemed to indicate all ARRA funding was moved into FY 2009-2010 and FY 2010-2011 was backfilled with General Funds. Is that a significantly higher number than in FY 2009-2010 because of the ARRA funds?

MR. HAARTZ:

In FY 2010-2011, the General Fund appropriation was approximately \$500 million. With the shifting of the General Fund appropriation and the federal funds, the General Fund in FY 2010-2011 was \$592 million. Then the 6.9 percent budget reduction was applied, which reduced funding by approximately \$35 million, leaving the total funding at approximately \$557 million. Therefore, that amount reflects both shifts of the Twenty-sixth Special Session.

SENATOR KIECKHEFER:

Was the General Fund appropriation in 2009 closer to the \$500 million than \$558 million?

MR. HAARTZ:

Five hundred million dollars was provided in each year of the biennium. An additional \$92.4 million in federal ARRA funds was also provided in each year of the biennium. From a governmental support perspective, funding was approximately \$592 million in each year of the biennium.

SENATOR KIECKHEFER:

Were those the budgeted figures when the 75th Legislature met in 2009?

MR. HAARTZ:

That is correct.

SENATOR KIECKHEFER:

Did you state that if the 9 cent property tax was spread across the 17 counties it would generate an additional \$10 million annually?

MR. HAARTZ:

The information provided by the Department of Administration in response to the request from the K-12/Higher Education Joint Subcommittee indicated the additional funding would be approximately \$10 million annually.

SENATOR KIECKHEFER:

Thank you very much for the clarification.

SENATOR SETTELMAYER:

During the Special Session, entities were instructed to consider ARRA funds as one-shot funding to replace General Fund support. Some departments such as engineering have structured their funding in that manner to enable it to move forward through other budget problems. I understand we are decreasing the amount of General Fund revenue potentially appropriated to NSHE due to the current bad economic times. Now a property tax shift is being suggested. On top of that, several students have e-mailed me that they are very upset with the amount of increase proposed for tuition fees. What is the final budget decrease once all categories of funding are combined? It appears the overall decrease is approximately 7 percent based on those theories. Is that correct?

MR. HAARTZ:

I have not made that particular calculation but will be happy to provide it to the members of the Committee of the Whole.

SENATOR SETTELMAYER:

I would appreciate it if you could get that information.

MR. HAARTZ:

I would be happy to do that.

SENATOR SETTELMAYER:

Thank you.

SENATOR HORSFORD:

Could we keep our questions to the material that has been covered by Staff? There is further information to be discussed.

SENATOR HARDY:

When we talked about the \$10 million in added property tax revenue if the other 15 counties were included, I understand the 4-cent and 5-cent property tax revenues are not used by the counties. It is directed to the General Fund and the Highway Fund. Please clarify how the funds are currently being used and how they will be used if this budget is approved.

MR. KRMPOTIC:

Currently, the 4-cent property tax assessment redirected from Washoe and Clark Counties for the current biennium was directed to the General Fund. The 5-cent capital rate changes each biennium per statute. Approximately one-half of that is directed to the General Fund as well based on the 2009 75th Legislature's actions. The other one-half is directed to the Highway Fund for use in funding highway construction projects. The Highway Fund rate was last established in 2007.

SENATOR HARDY:

Would this proposal take money being used by the counties and put it into higher education?

MR. KRMPOTIC:

Currently, the money that is recommended to be added to the budgets of the University of Nevada, Reno (UNR) and the University of Nevada, Las Vegas (UNLV) from Clark and Washoe Counties, is being directed to the General Fund and the Highway Fund.

The \$10 million referenced by Mr. Haartz, regarding the other 15 counties, is currently deposited in the county budgets for those 15 counties.

SENATOR HARDY:

Thank you.

MR. HAARTZ:

The preliminary budget reduction strategies begin on the bottom of page 3 of the Work Session Document. Two scenarios will be discussed. Those are a result of the K-12/Higher Education Joint Subcommittee's request for NSHE to present plans that took two different approaches to reach the budget reduction levels contained in the *Executive Budget*.

The first scenario relates to most of the remaining information in the Work Session Document. It essentially represents operating reductions. It would reduce expenses in instructional areas, academic support, student services, operation and maintenance of the physical plant and institutional support.

The second scenario requested by the Joint Subcommittee was to consider closures and consolidations. We will touch on that as we go through this presentation. You will see that the information referenced both Scenario No. 1 and Scenario No. 2.

Beginning on page 37 of the NSHE document, you will see the budget reductions and templates the Joint Subcommittee requested that NSHE prepare. Page 4 of the Work Session Document contains a table which provides you information anchored at the Twenty-sixth Special Session funding level. It also contains reductions included in the *Executive Budget* as well as for each of the State-supported operating budgets, in the Scenario No. 1 template, the main operating reductions and how they will accomplish reducing their budgets transitioning from 2011 to 2012 and 2013.

For example, on the first line of the table, UNR has a starting point of \$117.9 million. The Governor's recommended budget is \$95.6 million, so the governmental support budget reduction would be \$22.3 million. The reduction shown in the table as proposed in the preliminary budget reductions templates would be \$18.4 million, which does not quite get them there. As you look at the UNR budgets, at the bottom of the UNR row, they have undercut the total by \$1.3 million in the first year and overcut by \$1.3 million in their second year. On a biennial basis, they achieve the Governor's recommended reductions.

As a group of budgets and as a university program, UNR is proposing two approaches. As I noted, one is to adjust the cuts over the entire biennium so that by the end of FY 2012-2013, it nets out. In some budget accounts such as their main instructional budget, which is reflected on the first row of the table, they are proposing not to reduce the budget by the full amount or to cut to the full amount as recommended in the *Executive Budget*, but overcut in other budgets such as the Cooperative Extension row, you will see that the amount being cut is more than what is being recommended in the *Executive Budget*.

The university is requesting flexibility in how to approach the budget reductions from the UNR budget as a whole; whereas, as you will see in the other accounts, the reductions are on a straight line with the Governor's recommended budget. For FY 2011-2012 and FY 2012-2013, the bottom line amounts of \$466 million and the \$395 million already take into account the five percent salary reduction recommended by the Governor, the elimination of merit and longevity pay, as well as a general budget reduction in operating expenditures of approximately \$56 million and \$117 million in the second year. All the reductions recommended by the Governor are included in the bottom line amounts.

Page 5 of the Work Session Document provides limited information regarding the Scenario No. 2 reductions. This was the recommendations for closures and consolidations. The three consolidations considered were Great Basin College (GBC) and Western Nevada College (WNC) into Truckee Meadows Community College (TMCC), consolidating Nevada State College into the College of Southern Nevada (CSN) and UNLV and consolidating DRI into UNR and UNLV.

As you go through the budget reduction templates, you would note large amounts of savings are not identified. There is only \$12.41 million in savings. That is primarily through the consolidation of administrative infrastructure and costs. One part of the consolidations and closures not included in the Scenario No. 2 information is for the CSN and WNC; one of the operating reductions contemplated by both of their plans is the closure of satellite and rural locations as a way to meet the operating reductions required by the *Executive Budget*.

To assist the Joint Subcommittee and this body in summarizing and understanding the primary impacts of the budget reductions as contained in the *Executive Budget*, I have provided a series of tables that attempt to organize the information into several main areas such as the impact to academic infrastructure, the impact to student access and the capacity to instruct students and a staffing impact.

I will spend a brief moment on Table No. 1 on page 5 of the Work Session Document. This table organizes the reported impacts to the infrastructure of each of the teaching institutions they expect will occur. It is organized in terms of academic colleges, schools, departments or

centers being closed; academic programs being eliminated, academic degrees eliminated and course sections eliminated.

Attachment A, on page 10 of the Work Session Document, contains a series of bulleted information for each institution that provides select information on the types of impacts the institutions have identified in their budget reduction plans. Attachment A provides more context to the numbers reflected in Table No. 1 on page 5 of the Work Session Document.

Table No. 2, on page 6 of the Work Session Document, tabulates the impact the institutions predict will occur to their ability to teach and the number of students they will be able to serve. In FY 2010-2011, the left-hand column, their preliminary total number of student full-time equivalents (SFTE) they are instructing this year is 69,023. For clarification purposes, a SFTE is a student who takes 15 credits per semester and 30 credits per academic year. Obviously, not every student is a full-time student. Therefore, to make an unduplicated head count, information on the table in the last row discusses a student head count. Many more than 69,023 students are currently taking classes at the 7 teaching institutions. As you can see, based on the information provided on the budget reduction templates, NSHE predicts they will be able to serve 4,737 fewer SFTE individuals in FY 2011-2012 which translates to 11,638 unduplicated students for the same time.

In FY 2012-2013, they project a further reduction to 61,132 SFTE. That is 7,891 SFTE less than FY 2010-2011 with the student head count representing slightly more than 19,000 unduplicated students who would not be served.

Additionally, part of the information requested by the Joint Subcommittee was to review the number of instances in which students who attempt to enroll in an institution or sign up for a particular class, were unable to gain access a particular course. Page 158 of the NSHE document provides information for each of the teaching institutions regarding the number of instances in which a student was unable to enroll for a particular class over the last couple of years.

Table No. 3, on page 7 of the Work Session Document looks at the staffing impacts projected by NSHE as a result of the budget reductions. Overall, NSHE, based upon the Board of Regents' approved budgets, which are based on the funding approved by the Legislature, have approved 7,163 full-time employees across the System in the 26 State-supported operating budgets. The projections by NSHE are that employees will need to be reduced by 714 in FY 2011-2012 and by approximately 1,100 employees in FY 2012-2013. These are considered full-time equivalent positions (FTE). When part-time equivalents are included, the position impact would be approximately 1,050 in FY 2011-2012 and approximately 1,500 FTE positions eliminated in FY 2012-2013. Some of those positions as identified by NSHE are vacant. The NSHE has held positions vacant as a budget reduction strategy. Therefore, not every position identified has a person associated with it.

The bottom of Table No. 3 provides information on functional areas. The NSHE budgets are divided into functional areas, whereas executive budgets are typically based upon expenditure categories. The two methods are roughly equivalent.

For example, in the area of instructional function, of the 714 FTE positions that would be eliminated in FY 2011-2012, 386 instructional staff would be eliminated. Of the 1,100 FTE positions being eliminated in FY 2012-2013, 544 positions would be in the instructional area. Other functional areas include research, public service, academic support, student services and operation and maintenance.

The three tables summarize in the most succinct way, the impacts of the reductions identified by NSHE institutions and the non-instructional budgets.

For implementation of the budget reductions contained in the *Executive Budget*, NSHE has identified two key issues. Absent a declaration of financial exigency, they are required under the professional staff contracts to provide 12 months notice of layoff. As we get further into these budgets, a concept of bridge or transition funding is discussed. That is the mechanism used by some of the institutions to ensure they can provide the 12-month notice.

The second issue NSHE has identified is that of accreditation. The accrediting body requires the institutions to provide a reasonable amount of time for a student who has not yet graduated, but is in a degree program, to either complete their degree or successfully transition to an acceptable alternative. The term "reasonable" is not explicitly defined, but it is generally

considered to be from 1 year and 18 months or even longer, depending on the unique circumstances. These are considerations from an operating or management standpoint of NSHE.

Page 8 of the Work Session Document contains a short table identifying the bridge or transition funding each of the institutions have identified. The amount of funding required in FY 2011-2012 is approximately \$19.5 million and approximately \$10.7 million in FY 2012-2013. A discussion at the Joint Subcommittee level was the issue of student registration fee increases and fee surcharges. The Board of Regents has not approved either an additional fee increase or a surcharge for either year of the 2011-2013 biennium. The Board has asked the NSHE Chancellor's office to provide information on the amount of additional revenue and the impacts of a 10 percent fee increase, a 13 percent fee increase and a 15 percent fee increase. The information provided in Table 4 on page 8 of the Work Session Document contains the projections for a 13 percent fee increase as requested by the K-12/Higher Education Joint Subcommittee. Several aspects that are predicted by NSHE to occur with imposition of a surcharge including enrollment loss as a result a fee increases is that students would be unable to pay increased registration fees and would no longer continue their education.

The left-hand column of Table 4 lists the 2011-2013, currently approved student registration fees on a per-credit-hour basis for each level of institutions. For example, currently, as included in the *Executive Budget* and approved by the Board of Regents, a university undergraduate in the next biennium will pay \$156.75 per credit hour. However, a student enrolled in a lower division course at a community college will pay \$69.25 per credit hour. If a 13 percent surcharge is approved by the Board of Regents and imposed, those undergraduate credit hour fees would increase for the university undergraduate by \$20.38 per credit hour; and the community college student fee would increase by \$9 per-credit hour. The third column of Table 4 shows the total per credit hour fees students would pay including a 13 percent surcharge would be \$170.13 as an undergraduate at a university in FY 2011-2012 and \$78.25 at a community college for the same period.

The Board of Regents has also been presented information that includes an additional 13 percent surcharge for FY 2012-2013. That means a further increase in the surcharge in each year of the biennium. You can see the impact between where we are today compared to what is included in the *Executive Budget* and formally approved by the Board of Regents.

One discussion at the Joint Subcommittee level was how the fees charged by NSHE compare to the western region median and average among the Western Interstate Commission for Higher Education (WICHE) states with the thought being perhaps Nevada's fees were lower than what is charged in other states. If the 13 percent plus 13 percent surcharge was ultimately approved, a student attending UNR or UNLV would pay roughly the median as their peers would in other WICHE states based upon the current academic year. As this body is aware, these budget discussions are occurring in many states. Depending on what other states enact, Nevada may retain its relative position compared to other states. In the alternative, Nevada may in fact, pay slightly more or slightly less. Imposing a surcharge of this amount would make Nevada's fees roughly comparable to the median WICHE state fees.

Page 9 of the Work Session Document shows the impact in terms of dollars of the expectations with a 13 percent surcharge and a further 13 percent surcharge in the second year of the biennium. The tables are self-explanatory. They show adjustments for a 15 percent set aside to assist students requiring financial aid, estimating enrollment losses and adjusting the revenues contained in the *Executive Budget* to make them consistent with FY 2010-2011 as compared with FY 2009-2010, on which the *Executive Budget* is based. Approximately \$19.3 million in additional fee revenue would be expected as a result of the surcharge in FY 2011-2012 and approximately \$40 million in additional fee revenue would be anticipated in FY 2012-2013.

Page 10 of the Work Session Document provides information on the anticipated operating impacts of these budgets.

SENATOR HORSFORD:

A few of our speakers have time constraints so if the body would hold questions until after the next panel, we will recall the Fiscal Staff to the podium. We will now hear from the Chair of the Chancellor's Business Round Table, Mr. Phil Satre. In addition, in Las Vegas we have Mr. Kirk Clausen, Mr. Glenn Christensen and Mr. Michael Saltman to testify at this time.

Thank you for your service on the Chancellor's Round Table, Mr. Satre. I know you have led a group of business leaders to help advise the Chancellor on a number of issues pertaining to NSHE including how to better streamline their programs, how to better align them to economic development efforts and how to address the sustained budget reductions. We want to hear your perspective as a voice that is intricately involved in these issues, but from whom we do not always have the opportunity to hear testimony in this body.

PHILLIP SATRE (Chair, NV Energy, International Gaming Technology, Director, Nordstrom Incorporated):

I am here today to ask for your support for NSHE and to consider alternatives to the *Executive Budget* proposed by the Governor. I have lived and worked in northern and southern Nevada for the better part of 36 years. During that period, it has been clear to me that both UNR and UNLV have been on a consistent upward trajectory. The proposed budget reductions will have a long-term, possibly permanent, negative impact on higher education in this State and set back many years of progress the System has made. Why do I care?

As mentioned by the Majority Leader, I am Chair of the Chancellor's Business Round Table, so I guess you could say it is my job. Nevertheless, I have other jobs. I currently serve as Chairman of the Board of two Nevada-based public companies: NV Energy, Inc. and International Game Technology (IGT). I also serve as a Director of Nordstrom, Inc. which has substantial retail operations in Las Vegas. Prior to my role at these companies, I spent 25 years at Harrah's, now Caesar's Entertainment. For most of those years, I was either the Chairman, President or Chief Executive Officer (CEO) until retiring in January 2005.

The companies I am involved with have a substantial stake in Nevada's future. We have, in the aggregate, over 7,000 employees in this State. Our employees send their children to Nevada schools, both K-12 and postsecondary. These businesses hire many of our employees from Nevada's high schools, community colleges and universities. Without question, all of these businesses have a significant stake in this State's future and therefore a stake in NSHE.

Let me give you a few examples: I was CEO of Harrah's when we made, in conjunction with Bill Harrah's widow, Verna, the naming gift of \$5 million for the William F. Harrah College of Hotel Administration at UNLV. This gift was made in 1989. I am very proud that Bill Harrah's name is on that hotel school, now one of the nation's best. Many of the school's graduates populate our State's largest industry. Former Chairman Charles Mathewson and IGT provided \$10 million for the naming gift that enabled the construction of the magnificent, state-of-the-art, Mathewson-IGT Knowledge Center on the campus of UNR.

More recently, NV Energy has made gifts of more than \$1 million to both the UNR and UNLV institutions for renewable energy programs. A gift to the UNR College of Engineering will support the growth of the renewable energy program, including faculty positions to research renewable energy and funds for workforce development efforts. We have also made gifts to TMCC, DRI, and GBC. All of the initiatives funded by the NV Energy gifts are critical to the future of economic development in Nevada.

Finally, like so many others who have been fortunate to prosper in this State, my wife and I have personally contributed over \$1 million for scholarships and grants to NSHE schools. We have done that because we have been inspired by the leadership of these institutions, their mission and by their students.

When gifts of this magnitude are made, I think there is an implicit expectation of continued government support. Without that implicit promise of sustainable support, it would be difficult, if not impossible, to attract private support in the future that will be necessary for this State to continue to prosper.

The companies I have mentioned have been in Nevada for decades. In fact, NV Energy has been in the State for over 100 years. We are all here for the long term and we are all committed to this State. We are proud to have been a part of the building of the university system. We have

its graduates in our executive suites, among our managers and supervisors, on our front lines. Our children attend these colleges and universities. We want to help build, as we have over the past 20 years, a university system that will serve Nevada's future.

We are realists. When the financial crisis took root in 2008 and 2009, the businesses I referred to saw their revenues and their profits decline sharply and painful decisions had to be made. Those painful decisions included curtailing programs, eliminating benefits, reducing capital spending and eliminating jobs. However, we believe, just like the businesses that had to meet the challenges of this great recession, that we could not make cuts so deep that we disabled our competitiveness and thwarted rebuilding, renewal and recovery when the economy recovered. Had we and other businesses in the private sector gone too far in cutting jobs, cutting capital investments and eliminating programs, Nevada's economic recovery would be in even greater jeopardy.

That is just what the full impact of these reductions in the *Executive Budget* will do to NSHE, placing the quality of higher education at too great a risk for our future. It will not make our State stronger; it will not make us more ready to recover. It will make us weaker and extend the period required to recover from the economic downturn in this State.

To use a metaphor from my days at Harrah's, "All of you in this room have been dealt a tough hand" when it comes to the 2011-2013 budget. These years are not going to be easy for this State. I am sure for all of you, for Governor Sandoval and for your colleagues in the Assembly; it feels as if your hands are tied, particularly with the obligation to present a balanced budget.

However, rather than allow it to be a foregone conclusion that we cannot afford a vibrant economy, a vibrant educational system and a better Nevada, I ask you to recognize that you have been elected to use your intellect and your resourcefulness to decide what Nevada's future will be. In business, we no doubt have greater latitude to invest in the promise of future revenues, but that does not mean you cannot exercise judgment and creativity. Although I was not a part of the process or the decision-making, I would endorse the position taken by the Las Vegas Chamber of Commerce last week. "Additional tax revenue may be necessary, particularly when linked to significant and meaningful reform that will fix systemic problems in our State."

SENATOR HORSFORD:

I also want to hear from representatives in Las Vegas. I do not know if they are a part of the business round table, but we want to allow them an opportunity to speak. Please come to the table in Las Vegas and identify yourselves.

KIRK V. CLAUSON (Regional President, Wells Fargo, Nevada and Chair, Henderson Chamber of Commerce):

We came out several weeks ago in support of higher education, similar to the Las Vegas Chamber of Commerce action. I would like to lever off the previous speaker in terms of the reason we are here. In general, we are in support of higher education.

Wells Fargo has about 3,700 employees in Nevada right now. Many folks are surprised by that. A very large number of them are graduates of our higher education system, particularly UNR and UNLV. These are tremendous folks who came to us well prepared. We try not to mix them because of the rivalry, but they do a tremendous job for us. Several of these individuals hold key positions in our company. A couple of names you may know include Jay Kornmayer, who runs our gaming division, not only nationally but internationally; Jeff Ardito, our private mortgage manager and Brian Formisano, a UNLV graduate, manages a large district in southern Nevada. There are dozens of others I could mention.

The Las Vegas community continues to grow in spite of what has been going on economically. It is essential that we have a comprehensive research university in this community. Today it is somewhat underserved with only one institution. That is fine, but we need that institution to be healthy, vibrant and growing. The role UNLV plays in the community is critical when it comes to economic recovery and diversification in the future. In fact, I cannot imagine we can come out of the economic downturn faster without the university. Diversification cannot happen without a vibrant university in place.

This past Wednesday, the President of UNLV and his team hosted an on campus meeting for Las Vegas Chamber members and key business leaders. I happened to be invited as well. It was a tremendous experience to tour the facilities, hear students speak, hear about the programs that

are in place and, as someone said, "it is one of Las Vegas' best kept secrets in so many ways." If you think about it, neither Reno nor Las Vegas are thought of as college and university towns. This campus really is a treasure of which we should take better advantage.

In my opinion, higher education is not just a budget item. It is truly an investment in our communities. Speaking from a Wells Fargo perspective, we have made incredible investments in the entire higher education system.

As an example, Wells Fargo provides over \$170,000 annually in scholarships. The scholarships often go to first generation low- to moderate-income students. The best part is, once a student has earned that scholarship, it remains with them through graduation. We provide tuition reimbursements of roughly of \$100,000 annually for our team members throughout the State. Beyond that, we have underwritten millions of dollars in sponsorships and programs. I would ask you to do everything possible to ensure we can sustain this university system.

GLENN CHRISTENSEN (Chairman, Nevada Development Authority):

The two greatest challenges in our community today are economic development and education. Higher education is inextricably linked to attracting, expanding, retaining and diversifying the economy of southern Nevada.

Those in leadership who came before us had the wisdom to implement a three-tier structure in our State with educational opportunities at the research institutions, teaching universities and community college levels. The structure was created for several reasons, not the least of which is that it is by far the best structure to enhance economic development in our State.

Higher education plays a critical role in southern Nevada's economic recovery and is a critical economic resource to our community through educating the local workforce, fostering innovation and discovery. For example, as a research institution, UNLV generates important grants and outside funding which help attract diversified businesses. I attended the meeting this week mentioned earlier by Mr. Clausen. All the leaders left that meeting with an even greater understanding of and respect for UNLV's impact on southern Nevada. Higher education is not just a budget item. It is an important component to the southern Nevada economy and its recovery. It is my understanding that including multiplier effects, UNLV alone generated \$1.15 billion in economic activity for southern Nevada in 2009. For every dollar of State allocated funds, the university demonstrated \$5.80 in economic activity in southern Nevada. That is a phenomenal return on investment. The other institutions also have a very strong economic impact.

Given my extensive financial background, I fully comprehend the depth of today's economic challenges. What I do not understand is severely damaging an important lifeline for returning our community to its previous status as an economic powerhouse and the envy of the entire country and further disadvantaging Nevada as we compete in a national and international economy.

I firmly believe in the critical importance of collective economic well-being to the three-tiered system of higher education in this State. I have dedicated both time and money to demonstrate those beliefs. I am Chair of the Nevada State College Foundation. My wife and I currently fund four full-ride scholarships at that institution.

In another setting, I would love to talk to you about the great things we are doing at Nevada State College, where we are educating the next generation of professionals in our State. I have been President's Associate at UNLV since the mid 1980s, an advisor to the business school and I recently participated in a selection committee for the new director of the Center for Business and Economic Research, where I am a long-time sponsor. I am also a member of the Chancellor's Business Round Table.

I know you have a difficult decision to make with respect to the budget. You have many things to consider in arriving at a final conclusion. I hope that at the top of the list is the fact that higher education is directly linked to the economic health and job growth of our community. Our three-tier-system in southern Nevada — UNLV, Nevada State College and our community colleges are imperative to our community today and the one we want in the future. We need these schools now more than ever.

MICHAEL SALTMAN (Vista Group):

I am a long-term resident of Las Vegas. I have been in Las Vegas since February 10, 1975. Like many of my friends, I have adopted UNLV as my university. I am also a member of the Chancellor's Business Round Table, so I am fully on board regarding Mr. Satre's earlier comments.

Thank you for giving me the opportunity to express my views, albeit briefly, regarding higher education in Nevada. There is no question that I am higher education and, to the extent of UNLV—UNLV-centric. For over 25 years, I have been a UNLV Foundation Trustee. I serve on the Executive Committee. My company, the Vista Group, has given the Vista Group award. In fact, April 20, 2011, marked the 26th year for making the award to the outstanding liberal arts graduate at UNLV. Recipients have dispersed worldwide and established themselves as impressive individuals with their UNLV degrees.

I am also on the William S. Boyd School of Law Advisory Board. The Law School is now ranked 71st in the country under the leadership of Dean John White and former Dean Dick Morgan. My wife and I are the founders of the Saltman Center for Conflict Resolution, which is now ranked ninth in the country. My wife is also a graduate of UNLV and has an master of arts in psychology. Like Mr. Satre, we have given more than \$1 million to various portions of the Law School and UNLV.

My first projects in Las Vegas were at and around UNLV. It is my submission that the heart and brain of southern Nevada is UNLV. Thriving cities and economies need strong universities. Every major city in the country and the world sees and understands that. That includes our neighbors in Reno and in Phoenix – where the Mill Avenue Project for Arizona State University was initiated. That is my model for the future of the Midtown Project in Las Vegas around UNLV. Other such cities are Tucson, Salt Lake City, Denver and Albuquerque. The Intermountain States all recognize the absolute significance of a major university in their cities.

UNLV is indeed an economic engine through job creation, diversification and quality of life, all of which can be leveraged from the intellectual capital at and around UNLV. As Mr. Christensen noted previously, more than \$1 billion in economic activity was generated in southern Nevada during 2009. Obviously, that was a down year in the economy. We are looking at a future with increased economic activity in southern Nevada through UNLV's significant contributions.

For every dollar of State funds invested in UNLV, and for that matter, NSHE, UNLV is generating more than \$5.80 in economic activity in southern Nevada.

Paraphrasing Dr. Smatresk's recent comments, "UNLV and higher education will clearly lead the way into a better and brighter future in economic diversification." I trust you will take these comments and others like mine into consideration as you arrive at your final budget and the funding of and investment in the higher education programs in Nevada, north and south.

SENATOR HORSFORD:

I really appreciate the voice of the business community being a part of this dialogue. We hear from you as representatives individually, but sometimes it is important to understand your perspective as a collective body.

On behalf of the State, I appreciate the contributions each one of you have made as individuals as well as in the capacities in which you serve as management of major Nevada-based business interests. It is because of that private investment that we have been able to build a strong foundation, not only for higher education, but also for other functions in this State.

What I am hearing this morning is that you are asking us to continue our public and private partnership in sustainable ways. The Legislature needs to ensure a basic level of support so that the private sector investment will continue to be offered and can be leveraged in a much larger and impactful way.

SENATOR SCHNEIDER:

I have a question for the panel in the south. What I am hearing is that you are requesting us to keep our investment level the same or greater in secondary education to supply you with an educated workforce for your businesses. Are the businesses of Las Vegas, including Wells Fargo and the other executives, willing to consider corporate or income tax impositions?

MR. CLAUSEN:

It is interesting that you ask me that question because as a banker, in 2003, we certainly stepped up to additional taxes. The industry has demonstrated we are willing to invest in the community. As the Chair of the Henderson Chamber of Commerce, I can provide some valuable feedback.

As I talk to members, depending on how the question is structured, they are almost universally supportive of higher education. When you say to them, "Are you willing to let our university or system of higher education decline or find mediocrity?" They will generally say no, that is not what they want to have happen. If they can be assured the taxes they are already paying to the State are being effectively and efficiently spent, they are willing to come to the table to talk about additional taxes to sustain NSHE.

SENATOR SCHNEIDER:

I have a question for Mr. Satre. When I buy a suit at Nordstrom's in California, the store must pay corporate tax, income tax, inventory tax and others. Their workers' compensation rates are also high. Is Nordstrom's willing to pay similar taxes in Nevada? They currently pay none of those taxes in this State.

MR. SATRE:

I am not speaking on behalf of Nordstrom's because I am not the Chairman or CEO of that company. My position is a director. All of the companies in this State with which I am affiliated, want Nevada to flourish and we understand there is a cost for that, particularly as it tries to recover from this recession. I would say to the Legislature, in general, my position as a board member of those companies and as Chair of two of them, is simple. If we need to resolve the problems created by this recession, we may have to entertain broad-based business taxes to help us fill some of those gaps between what are reasonable changes; reforms I think you have insisted on, reforms to which NSHE has responded and other reforms outside NSHE as well. Many of those are contained in the Nevada Spending and Government Efficiency Commission report which I support. In combination with those reforms, we recognize that there may have to be a broad-based business taxes that brings funding to a level of support to sustain these universities and community colleges on a going-forward basis.

SENATOR SCHNEIDER:

When I was in Denver, Colorado for a conference, the news noted the people who are unemployed are returning to school at colleges and universities. That state is preparing to increase funding to assist students who are trying to better their situations. It is similar to what we are facing. This seems like an inappropriate time to be reducing funding to education.

SENATOR HORSFORD:

I want to thank our panel in Las Vegas. We appreciate their being here and seek to have them continue to participate in the process in the concluding days and weeks of this session. Next, we will hear from a student representative. The Senate Committee on Finance has heard time and again from the presidents and the administration of NSHE and we will continue to hear from those entities. However, the decisions we will make will impact the students most. We have with us a student from UNR. She is from Las Vegas. She has an incredible background story. She exemplifies and represents thousands of other students in similar situations.

BEATRIZ AGUIRRE (Student, UNR):

I am a native of Las Vegas, a social work student at UNR and President of the Undergraduate Social Work Association.

I come from very humble and hardworking beginnings. My parents have worked hard to allow me the opportunity to become educated and study something I am so passionate about and believe in so strongly.

I believe education is the only way for Nevada to progress. It is the only way for us to have a good future in this State. As we talk about jobs and the ability to diversify the economy and bring more businesses into this State, we cannot cut education. Education and jobs go hand in hand in creating an educated workforce.

As social work students, we have had several conversations with many members of this body. We were here one week ago to hand-deliver petitions from every district in the State. Those constituents were asking their representatives to support revenue increases and fund education. Many of our conversations, with Republicans or Democrats, show that education is highly valued in this State. However, the funding is not there right now.

Whether we are from the north or the south; whether we are Wolf Pack alumni or Rebel alumni, we need to work together to fight for this State to have a better future. That will only come through education. As students, we would accept a reasonable tuition increase to share the burden, as long as the funds stayed on the specific campus and directly fund education.

Much of the burden will be on students in the schools as we see many programs being cut and professor positions are being eliminated. If we are going to share that responsibility, we would like to see that business and other community partners stand up and share the responsibility to fund this State.

I have heard several discussions about the budget reductions concerning which programs are retained and which programs are eliminated. As social workers, we believe both the schools of social work at UNLV and UNR must be maintained. There are many different needs throughout the entire State; therefore, both universities are needed. There have been increased needs for many services to Nevadans because of the economic situation. If these programs and services are cut, we will be unable to serve as many individuals.

If we want to see a prosperous Nevada, we must invest in education. I believe the time to do that is now, not holding it off until the next Legislative Session, when we may find ourselves in the same position.

SENATOR HORSFORD:

Thank you for being here and sharing the students' perspective of what these cuts mean and the willingness of students to step forward and share some burden of increased tuition in balance with responsibility of others to do the same.

We will now hear from the Chancellor of NSHE and any of the NSHE presidents who wish to speak. Following that, we will hear from the Administration's Chief of Staff and Budget Director.

DANIEL J. KLAICH (Chancellor, Nevada System of Higher Education):

Thank you for this unique opportunity to address all members of the Senate today. Before I begin, I would like to personally thank you for suspending business yesterday afternoon to enable members to attend the memorial service for Dr. Milton Glick. It meant a lot to Mrs. Glick and to her sons.

I would like to begin by stating the obvious. We understand there is an economic crisis in Nevada, perhaps the worst in our history. We must balance our budget. We understand that will require significant cuts to spending throughout the budget and painful sacrifice that is appropriately shared by all Nevadans.

Having said that, our challenge, and yours, is to navigate these difficult waters in a way to preserve core services including education and to serve our State well in recovery. I am here today to discuss how those of us in higher education intend to do that, with your help. Like most Nevadans in both the public and private sectors, public higher education arrives here today after more than three years of heavy budget reductions. Over that time, while enrollments and fees have increased and salaries have been frozen or reduced by furloughs, NSHE's General Fund support has been reduced by about 20 percent. Our presidents, working closely with their faculty and students and under the supervision of the Board of Regents, have implemented budget reduction plans aimed at protecting faculty and classes for students. Reductions have been made in capital, equipment, maintenance, support services and administration to protect these critical classroom functions.

In the process of protecting faculty to the best of our ability, we have also worked diligently to protect research. Ironically, one result of these plans aimed at preserving the access and quality of the student experience, is that it has left many, if not most, ordinary Nevadans thinking there has been no impact on our colleges and universities. In fact, with General Fund appropriations reduced about 20 percent, and enrollments increased system wide, we have eliminated nearly 9 percent of the State-funded positions. Like many Nevadans, we are being

forced to do more with less. With less of our star faculty and matching funds required for research grants, our research and development has decreased in the last two years by 11 percent. I mention these facts, not to complain, but to emphasize we are not reviewing the reductions in the proposed *Executive Budget* on a clean slate. Rather, we are considering this budget from the vantage point of three and a half years of painful reductions. Against this backdrop of continuing budget reductions, the Board of Regents, the presidents and I have prepared a strategic plan for aligning system goals with that of the State in a time of constrained resources. I have distributed a copy of that plan to all Senators. Therefore, I will not repeat it in detail today.

We must produce more graduates in less time. We must have more sponsored research. We will move to market-based fees and create differential fees for select programs with authority to direct the spending of those fees where they are generated. We would like to see a stabilization fund created for higher education to plan for the inevitable time when we will again experience a reduced economic cycle. We are involved in a continuous review of all processes and programs for maximum efficiency, effectiveness, transparency and assuring the taxpayers of Nevada that we wisely spend every dollar we are allocated.

We will establish structures that will align the goals of the State, higher education and private business to assist in economic development and diversification. That effort is already well underway with the bipartisan effort introduced approximately two weeks ago with Senate Bill No. 449.

We believe we must have more intense and seamless partnerships with public education and that every element of this plan must be built on recognized and well-communicated metrics for performance and reporting those to the Governor, the Legislature, the Board of Regents and to the citizens of Nevada. We are committed to holding ourselves accountable to well-defined and rigorous goals. Our plan is not a business-as-usual plan. We are committed to significant reform in academics, in finance and in administration. Students in this State will see significant differences in how we have operated.

We have called for a legislative and gubernatorial partnership to a complete review of the funding formula and for the method of State fund allocations. We must recognize the different missions and fund them appropriately. We must let data indicate if there are inequities or disparities without reason and correct them. Funding must be based on enrollments and performance in critical areas such as course completion. Reform and funding must go hand in hand. Every policy on funding and budgeting should be analyzed to support a more entrepreneurial structure which recognizes the fact that public higher education must move; and we will move, to a more self-sustaining model in the future. However, we cannot, at the same time, disadvantage students by offsetting General Fund monies with fees and out-of-state tuition while we become more entrepreneurial. In this context of reform and change, to which we have committed our future, we must discuss whether the budget before you advances that reform and ultimately the interests of higher education in Nevada. I would submit to you that it does not.

In the Work Session Document and the NSHE document reviewed earlier today, we have submitted plans for reductions in our budgets as required in the *Executive Budget* by \$162 million by the end of the current biennium. Let me tell you briefly what those reductions will mean from an NSHE standpoint and what they will mean to your constituents. It will supplement the Work Session Document.

The proposed budget reductions will dramatically impact higher education and in particular access to higher education. It is important for you to understand the cuts to the levels proposed in the *Executive Budget* will result in an entirely new model for higher education in Nevada. We believe it is one not in either the short- or long-term interests of this State. In the short term, it will lead to greater unemployment and withdraw critical dollars from our economy, worsening and prolonging Nevada's economic agony; rather than assisting in its recovery. In the long term, this model will reduce access and opportunity to thousands of Nevadans by either limiting enrollment or pricing higher education out of their reach. Therefore, it will limit the educated workforce needed to move our economy forward and to recruit and retain the businesses we want here in Nevada.

One of the cornerstones for higher education has been our commitment, along with the commitment of the Governor, to the Complete College America consortium. The consortium is dedicated to producing more graduates with different methods of academic reform. It is a

combination of states, working together, to use what I have referred to in the Joint Subcommittee hearings as the "CASE method" — copy and steal everything by looking at best practices throughout the country and incorporating them in higher education in Nevada. With this budget, our continued participation in the consortium and our goal to produce more graduates will be in jeopardy along with the potential loss of a number of grants designed to assist us in this effort.

You know, because you hear from constituents and you let us know, that enrollment in this system has been effectively capped for a number of years as a reduced number of available classes have filled and fees have increased. The reductions we are facing will multiply our enrollment challenges. Our colleges and universities report that faculty and staff reductions will cap enrollment levels across the State at unprecedented numbers.

Students who are clearly qualified for entrance into any of our institutions will be denied entrance. They will be turned away in greater numbers than ever before. This will not only be true at the universities, but at the State college and the community colleges. This will impact the access mission of those ladder institutions.

We will develop strategies to deal with this change at our colleges while still being sensitive to our diverse student population. That may include admissions tests and a requirement for high school diplomas. But, the underlying reality is we will be turning Nevadans away. We simply cannot serve everyone at this level of reductions with any promise of quality in their educational experience.

I work with presidents, faculty and students to bring recommendations to the Board of Regents striving for fundamental fairness in ensuring students will be able to attend higher education and given the opportunities to whatever extent possible. We will be particularly mindful of low income and first generation students who are disproportionately students of color. With this budget, we will no longer pretend that any student who is qualified for acceptance will have access to the classes, support services, financial aid and ultimately a degree. We will give priority in registration, to need-based financial aid and the opportunity to complete a degree or a certificate to full-time attending students.

Unfortunately, we will need to seriously evaluate the transfer mission of our community colleges in light of this new reality. We can no longer guarantee that every student who qualifies to transfer from our community colleges to our State college or universities will have the ability to do so. If our promise to students is the ability to reasonably complete their course of studies and obtain a degree within a reasonable period, we must avoid upper division bottlenecks that could result from unlimited transfers. In addition to these limits on student access, we will offer fewer classes at fewer locations. This could particularly impact rural locations that will suffer as our colleges focus their limited resources on serving the greatest number of students. We will do our best with technology to continue providing offerings, but live classes will be significantly diminished.

As Mr. Haartz indicated, we anticipate a drop in enrollment in excess of 15 percent over this biennium based on program elimination, faculty layoffs, site closures, fewer classes offered, increased fees, inadequate tutoring and support services. Until resources improve, this decrease will represent a cap on enrollment. We anticipate more than 20,000 qualified students, equaling approximately 8,000 SFTE individuals who wish to take advantage of higher education, will be turned away. They are either students who will have to leave this State to attend postsecondary institutions and likely not return, or students who will just never go to college.

Research and workforce grants in this State will in all likelihood continue to decline as resources for matching funds dry up and as our best and most entrepreneurial faculty are cherry-picked by other institutions across the nation. We have consistently advised policy makers that this selective destruction of our best faculty has already begun, and should be expected to accelerate. The impact will not only limit economic expansion that innovative research can foster, but will negatively impact our leveraging capability by reducing revenues that research institutions can generate to help themselves produce budget support.

We pledge our best efforts to work with private businesses and the State economic development infrastructure but we want to be clear that fully supporting business initiatives while retrenching across the board is simply not possible. You know that many of the difficult decisions we are forced to make will bring out constituent voices. They will object to individual, center, program and institutional closures and consolidations. I am sure you are already hearing

those voices. We are too. Every action is taken with a strong awareness that we are losing or reducing programs valuable to Nevada. We do not believe there are any good or easy choices here.

Throughout this process, I have promised to be honest with you. I have told you we will not say something we do not intend to do, or put something in front of you on which we are not prepared to follow through. I have outlined what our presidents are required to do to make cuts to achieve these levels. Diminishing and cutting higher education is bad for Nevada. I hope that we can work together to significantly mitigate these impacts, however, with the funding that appears to be available today, we believe the steps I have discussed will be essential.

I understand this is a hearing on the NSHE budget and not taxes, but I would like to make a brief comment regarding the potential of new funding, a topic which is consistent with the unanimous resolution of the Board of Regents that Mr. Byerman read into the record at the beginning of this hearing.

Somehow, the discussion of whether or not there should be additional new taxes in Nevada has gotten intertwined with sunsets on existing taxes. I have outlined dramatic and long-term impacts on higher education and I am sure you have heard similar stories from public education, health and human services and other budget areas. We are talking about a budget that is built on giving a tax cut in the upcoming biennium to the largest businesses in this State by allowing the existing tax rates to sunset. To make matters even worse, the businesses now paying those taxes, whose tax bills will be reduced, will lose the ability to deduct those taxes on their federal returns. In short, while we will have huge cuts to critical services in Nevada, we will be giving large tax breaks to Nevada's biggest companies and sending a portion of those dollars to Washington, D.C., where we will never likely see them again. I cannot see where this is good policy or how it helps ordinary Nevadans secure services, including the education they want and need.

There are revenue solutions available for the future that can forestall some of these cuts to our colleges and universities and we ask that you consider all possibilities as you deliberate in these extremely difficult times. We have been searching for every idea to keep from destroying public higher education in this State.

In that regard, I would like to present to you a four-point plan for funding higher education in the upcoming biennium that I think fairly embodies the shared sacrifice that has been discussed in detail. Implementation of the four-point plan can assist in mitigating the worst impacts of the budget reductions outlined today. It will require the legislature's action and support.

No. 1: I ask that the dollars allocated to NSHE for the biennium be appropriated equally in each year of the biennium. Averaging or smoothing appropriations in this fashion will not cost the State \$1 over the biennium and will change the target of our reduction in FY 2012-2013 from \$430 million to \$395 million, a net positive change of over 7 percent without costing the taxpayers of Nevada even \$1.

No. 2: We will ask that students and their families pay a greater share of the cost for higher education. As Mr. Haartz indicated, most of the institutional plans submitted to the Board of Regents and to your Joint Subcommittee on Higher Education have included recommended increases of student fees by 13 percent each year, netted by a 15 percent set aside for financial aid to ensure access to those most needy. This will include a set aside to ensure the opportunity for higher education is not foreclosed.

No. 3: We commit that our entire system of public education, each institution, will implement permanent operating reductions in an amount at least equal to the contribution we are asking our students to make.

No. 4: We ask the State of Nevada to infuse additional General Fund support into our budget in an amount proportionate to the permanent reductions and the increased student fees. This plan includes the reduction of salaries across the board as indicated in the *Executive Budget* for all State employees. Taken together, I believe this plan represents a reasonable sharing of the burden of this current situation among students and their families, faculty, our colleges and the State.

If this plan is implemented, we will protect higher education to the greatest extent that can be expected in these times. We will promise academic and financial reform that will produce

greater efficiency in all of our operations resetting the financial and social compact among the State, the Legislature and the students of Nevada.

I will close with these comments. We come to you today and ask that you hear us, that you believe us, and that you partner with us to save our children's and grandchildren's opportunities for college and a brighter future. That is the very same opportunities all of us have enjoyed to this point. I have provided my written comments in a memorandum dated April 5, 2011 from the Board of Regents and the Joint Subcommittee on K-12/Higher Education.

SENATOR HORSFORD:

I appreciate your remarks, particularly the four-point plan. I want to drill down on that further. Is the 13 percent a fee surcharge in tuition? We do not charge tuition to in-State students. How much would a 13 percent surcharge in each year of the biennium represent?

MR. KLAICH:

In dollars?

SENATOR HORSFORD:

Yes.

MR. KLAICH:

Mr. Haartz has indicated that revenue would be approximately \$40 million, taking into account a loss of approximately \$9 million in tuition due to potential loss of enrollment. We are shooting at a bit of a moving target. On the basis of current enrollment, the revenue would be approximately \$50 million. Therefore, the revenue generated would be approximately \$40 million to \$50 million in the second year of the biennium.

SENATOR HORSFORD:

If I heard you correctly, the tuition increase of 13 percent would generate \$40 million to \$50 million in additional revenue. The System is prepared to make reductions in its operating expenses of an amount equal to that tuition increase in an amount of approximately \$40 to \$50 million. Is that correct?

MR. KLAICH:

Close to that.

SENATOR HORSFORD:

In addition to that, is your request to increase State support beyond the Governor's recommendations equal to that impact, or an increase of what amount?

MR. KLAICH:

Approximately \$50 million in the second year of the biennium.

SENATOR HORSFORD:

Is that increase in State funding requested only in the second year of the biennium?

MR. KLAICH:

There is money in the first year of the biennium. I am not laying any hard figures on the table. I assume you will all want to discuss the exact funding. I am discussing a partnership.

SENATOR HORSFORD:

How much funding is needed in each year of the biennium in order to better manage the impacts of those reductions? Help us to understand operationally what that means. The Governor's budget calls for a reduction in the second year of the biennium of up to 30 percent. What would averaging the allocations over both years of the biennium enable NSHE to accomplish?

MR. KLAICH:

The General Fund appropriations in the Governor's budget ranged from approximately \$558 million to around \$460 million in the first year of the biennium and then to approximately \$395 million or \$396 million in the second year. I would like to acknowledge that that budget

was initially constructed in that fashion after discussions with System representatives. The Governor presented the budget in that fashion because he was trying to provide a safe or soft landing for budget numbers. It did not work out as planned once the budget numbers were presented.

Rather than a budget reduction target in year two of the biennium, if you simply average the reductions over two years, that target will be \$430 million. That will require NSHE to accelerate some cuts into year one of the biennium. The NSHE will need to accept approximately \$35 million of additional reductions in year one of the biennium, but they will not be cut in year two of the biennium. Our budget will be at a higher level overall on a second year funding basis and on a going forward basis. Some of the deepest reductions will be avoided through that mechanism.

SENATOR HORSFORD:

Attachment A of the Work Session Document provided by our Staff outlines scenario No. 1 which is the reduction of academic programs based on the Governor's recommendations and the impact listed by institution.

Am I to understand Scenario No. 2 contains some of these proposals and administration consolidation that results in about \$12 million of basic support savings? A specific list has been provided of what will happen under Scenario No. 1. I am not as clear what happens in Scenario No. 2, which is the consolidation and closure of campuses.

MR. KLAICH:

The Board of Regents and NSHE are planning on multiple tracks, as is the Legislature. One of the initial assignments the Board of Regents gave to me and my staff was to research the potential for savings available by consolidating or merging certain institutions. We provided that information to the Board of Regents and have received input from the institutions potentially impacted. That is the source of the approximately \$12.4 million identified by Legislative Counsel Bureau (LCB) Staff. The Board of Regents has taken no action to close any institution at this point.

SENATOR HORSFORD:

What is the situation that would trigger the closure or consolidation of institutions?

MR. KLAICH:

In my opinion, Nevada has a good system of higher education. It recognizes and serves the needs of our communities throughout the State. If a worst-case scenario budget is adopted, the Board of Regents has reserved the potential for making decisions that some of those institutions may not be capable of continuing under certain funding levels. In that case, which I find undesirable, these savings could be reallocated to other institutions in NSHE.

SENATOR HORSFORD:

By "these savings" are you referring to the approximately \$12.5 million identified by our Staff?

MR. KLAICH:

That is correct. However, the estimated savings of \$12.5 million will not be saved on the first effective date of the new budget. There are notice provisions, accreditation issues and others issues that compound the situation.

SENATOR HORSFORD:

Under the Governor's budget, State support for higher education which, even at the current level of services approved by the 2009 75th Legislature and adjusted through actions of the Twenty-sixth Special Session, was 20 percent. Under the proposed *Executive Budget*, State basic support for NSHE would be reduced to 12.8 percent. I am aware there has always been a concern regarding the overall percentage of State support reduction because of the message that sends.

From a policy standpoint, what is your opinion of going from a 20 percent level of State basic support to a 12.8 percent level? Is the long-term message that 12.8 percent of State basic support

be the only level of support provided and should the System raise its own money to meet its own needs beyond that level?

MR. KLAICH:

The members of the business community gave a better answer to your question in their testimony than I can. That is, they respect the partnership the State of Nevada has with higher education and they are proud to participate in that with their corporate and private funds. I have no doubt in my mind that, living in a national market, if there were to be a dramatic decrease in the level of State support for higher education, that fact would be used against us in recruiting and retention. It would send a message and the message would not be good. The message is not positive for Nevadans, for Nevada families sitting around their tables saying, "Where should I send our son or daughter for education? Should we send them to Utah or Arizona, or should they stay here?"

Obviously, we would prefer to maintain that partnership at a reasonable and high level. It is important to consider my previous suggestions to implement an interim study regarding NSHE funding. That would be an appropriate time to consider the policy discussion. National metrics could be considered concerning fairness for students and their families; the State, how do we get there; how do we recognize the missions our institutions and fund them properly. If we all had that time and held reasonable discussions resulting in reasonable decisions, we could make determinations that Nevada families would support.

SENATOR KIECKHEFER:

I fully support the idea of an interim study reviewing funding methods for NSHE. Having a funding formula based on the number of bodies in an institution emphasizes enrollment, not excellence.

Have you seen the Work Session Document provided to this body by the LCB Staff?

MR. KLAICH:

I received a copy when I arrived today. Our staff has worked with LCB Staff to compile many of the figures quoted.

SENATOR KIECKHEFER:

Scenario No. 2 discusses the approximately \$12.4 million saved by the consolidation and closure of campuses. Table 3 on page 7 of the Work Session Document lists the various FTE staff positions that would be eliminated under Scenario No. 1 and under Scenario No. 2. Does the approximate savings of \$12.4 million include elimination of approximately 2,500 FTE positions between the two scenarios?

MR. KLAICH:

I had not seen these charts until today, but I think redirecting of the funds would cause the loss of some positions, particularly in the administrative realm and it would save others. There is not a one-to-one relationship.

SENATOR KIECKHEFER:

Does the four-point plan you presented anticipate maintaining the 9-cent property tax redirect in the Governor's proposal?

MR. KLAICH:

The four-point-plan is built on the maintenance of those funds. There is a significant policy decision as discussed in the Joint Subcommittee about whether those funds should be redirected to the General Fund and then allocated from the General Fund to NSHE or directly earmarked to NSHE. It does anticipate that those funds be maintained within the budget in one form or another.

SENATOR HORSFORD:

Of the reductions in either Scenario No. 1 or Scenario No. 2, which ones constitute administrative reductions and which ones reduce instructional funding?

MR. KLAICH:

We may have that information in our templates or can access it and provide it to your Staff.

SENATOR HORSFORD:

If possible, please provide the information during this Committee meeting to assist in today's discussions.

MR. KLAICH:

We can provide that information today.

SENATOR SETTELMAYER:

What amount of increase in tuition costs for an average resident undergraduate student is represented by the percentage of increase stated today?

MR. KLAICH:

Are you referring to the 13 percent increase in each year of the biennium?

SENATOR SETTELMAYER:

What is the cost increase annually for each student?

MR. KLAICH:

The current undergraduate fees at the two universities are \$156.75 per credit hour and they will increase by the end of the biennium to \$200, or an increase of \$50 per credit hour times 30 credits for a SFTE applicant.

SENATOR SETTELMAYER:

Looking at the WICHE figures, Nevada's fees are approximately 20 percent less than the average of other states. That is probably why an increase in fees is being suggested. I have also heard and seen reports online that the engineering school is expected to increase by 50 percent. Is the same true of nursing, physical therapy and architecture fields as well?

The physical therapy courses had 400 applicants for 30 available seats. With the increased interest in those fields, has there been a large increase in enrollment loss?

MR. KLAICH:

Those fees were just adopted in the fall of 2010 effective for the fall semester of 2011. Therefore, a decline has not yet been seen. The purpose of the differential fees is for high-cost programs or high-demand programs. The NSHE hopes there will not be a decrease in enrollment because we have been selective and cautious about those increases.

SENATOR SETTELMAYER:

Each university has core programs they want to further so I understand raising tuition in those programs.

SENATOR DENIS:

During the presentation, you talked about the potential, under the current scenario, of losing up to 8,000 SFTE enrollments. Some of them may go out-of-state, but others would not seek higher education. How does that change under the four-point plan?

MR. KLAICH:

My rough calculations indicate that under the four-point plan, enrollment losses could be reduced by approximately two-thirds. I would expect there to be a proportionate mitigation of program closures and enrollment losses. That is why I indicated that fee income could be increased between \$40 million and \$50 million.

SENATOR DENIS:

I am concerned that students are already being impacted with all the proposed budget reductions and having to apply early for classes. Will we have to wait a year before there is any possibility of getting some of those students back to Nevada?

MR. KLAICH:

I had that exact conversation with Dr. Glick within the last month. If you consider the enrollment projections for UNR, you will see no impact on enrollment in year one of the biennium. That was due to Dr. Glick's belief that for all practical purposes, the enrollment year had already begun. Recruiting and marketing were completed. Students were filing their papers and those students must be served in the first year of the biennium. The major impact would come in year two of the biennium.

SENATOR DENIS:

Even under NSHE's proposed four-point plan would the registration fees remain what has already been proposed?

MR. KLAICH:

No, under the four-point plan I suggested, there would be an increase of about 13 percent in each year of the upcoming biennium which would include the increase in fees as indicated by Senator Settelmeyer and the increase in revenue to the System of \$40 million to \$50 million.

SENATOR DENIS:

You were talking about a \$215 per credit hour charge for undergraduates in FY 2012-2013. Would that stay the same?

MR. KLAICH:

That fee is not booked. The current fee, approved by the Board of Regents for university undergraduates at UNR and UNLV, is \$156.75 per credit hour. That is what a student would see in our course catalogs. My proposal is to increase that fee by approximately \$50 per credit hour over the biennium.

SENATOR DENIS:

How does the four-point plan change the number of faculty that would be eliminated under the scenario that positions would be eliminated and processes streamlined.? How many good faculty members have we already lost? Are there positions available in other areas of the country for the faculty members who may be eliminated? Will Nevada continue to lose quality faculty to other areas with better offers?

MR. KLAICH:

Erik Herzig, Chair of the Department of Mathematics and Statistics at UNR, gave testimony before the Joint Subcommittee describing faculty losses. One member of his faculty left for a position at the University of Texas in Austin. He stated it was a natural progression and an upgrade for that staff member. He indicated they had just lost another member of their faculty to North Texas State University and he did not feel that was as great an opportunity. His opinion was that UNR and UNLV should be competitive with those institutions and our best faculty should not be cherry-picked by those entities.

Mr. Ted McAleer spoke at the Nevada 2.0 Conference and provided a map showing from where some of the best entrepreneurial faculty was cherry-picked. Reno, Nevada was shown as losing one of its most entrepreneurial faculty in engineering and the institution also lost his grant funding.

Yes, we are losing some of our star faculty. Faculty are always most mobile at the highest levels. Unfortunately, those are the individuals we will lose. I cannot state Nevada is acting in a vacuum. Every state, except a few states with energy industries, has budget problems. They are cutting higher education. Under the scenario I outlined, I would hope we could mitigate the loss by at least two-thirds.

SENATOR DENIS:

Thank you.

SENATOR HORSFORD:

Chancellor, there is much information to be discussed in this meeting and we need to keep all questions and comments as succinct as possible.

SENATOR ROBERSON:

A part of your four-point plan requested additional funding. What amount of additional funding is being requested by NSHE?

MR. KLAICH:

I do not have a specific funding request today. However, as the budget process gets nearer completion we can discuss specifics and come to agreement on additional funding.

SENATOR ROBERSON:

Did you testify there would be an increase in student fees of \$40 million to \$50 million over the next biennium?

MR. KLAICH:

Yes, I testified, those increases would be implemented by one-third increments.

SENATOR ROBERSON:

What amount of operational fund reductions is proposed under current funding availability?

MR. KLAICH:

Those reductions are approximately \$50 million in each year of the next biennium.

SENATOR ROBERSON:

Would that be approximately \$100 million for the biennium?

MR. KLAICH:

That is correct.

SENATOR ROBERSON:

What portion of the operational reductions consists of the 5 percent salary reductions?

MR. KLAICH:

None of the salary reductions are included. The plan I outlined assumed the 5 percent salary reduction.

SENATOR ROBERSON:

Would the operational reductions be in addition to the 5 percent salary reductions?

MR. KLAICH:

That is correct.

SENATOR ROBERSON:

What is the aggregate amount of the 5 percent salary reductions?

MR. KLAICH:

Every percent employee salaries are reduced in NSHE reduces budgetary needs by \$5 million. Because salary reductions for furlough costs were already removed from the budget in the prior biennium, most of that savings has already been realized. Therefore, the reduction from 4.6 percent of salaries under furloughs to the 5 percent reduction in the *Executive Budget* does not make a large difference.

SENATOR ROBERSON:

In other words, there is essentially no salary reduction in the 2011-2013 biennium?

MR. KLAICH:

There is no pay cut to a number of employees. There are salary reductions to tenured faculty because their pay could not be reduced in the last biennium.

SENATOR ROBERSON:

If a 10 percent salary reduction were proposed, would that add approximately \$25 million to the NSHE budgets?

MR. KLAICH:

That is correct.

SENATOR ROBERSON:

For the sake of argument, to the extent that higher education asks for another \$100 million, where do we find that revenue? Alternatively, whose budget do we cut? Do we cut K-12 Education?

MR. KLAICH:

Absolutely not. They are our partners in education in Nevada and there is nothing we can do to enhance the quality of higher education more than to enhance the graduates from our public education system.

SENATOR ROBERSON:

I concur with your conclusion. Where else does NSHE suggest we cut budgets to provide the additional \$100 million requested?

MR. KLAICH:

My suggestion is that the Legislature bring additional revenue into the budget. I made the suggestion to allow the taxation sunsets to be extended.

SENATOR ROBERSON:

Mr. Satre called for a broad-based business tax. I am aware the Chancellor's Business Roundtable considers these issues. Are there any representatives of small businesses on the Roundtable? Representatives from big business were here today and recommended a broad-based business tax which impacts small businesses. I am concerned that it is easy to say, "Let's get rid of the sunsets on these taxes." In my mind, that is a tax increase that falls on small businesses.

The private sector is broke. That is a fact. We need to protect higher education for the future, but we also need small businesses in the State. They are the backbone of our economy.

MR. KLAICH:

I agree completely.

SENATOR ROBERSON:

When we talk about who we are going to tax today, we are talking about and burdening small businesses.

MR. KLAICH:

I do not believe we are.

SENATOR HORSFORD:

We are not going to have this debate at this time. I will defer to the Chair of the Senate Committee on Revenue for this discussion. We can have the discussion on who is impacted with a broad-based tax, but to imply that proposals have been made that would burden small business is inaccurate. In 2009, a tax break was passed for the purpose of protecting small businesses. There should probably be a Committee of the Whole scheduled for revenue discussions so that those facts can be made clear. No one has proposed any new revenue streams or broad-based solutions that impact small business.

SENATOR LEE:

As a small businessman, I can tell you we do think about those things. As the father of seven children, I think about the greater need of the family, too.

When looking at the worst case scenario, I would like to see a commitment from NSHE that, if the community college satellite campuses are closed, all of those students will have the ability to transfer to other educational institutions in the State to continue their degree goals. If students miss a year or two, they have to go back and see how classes they have already taken have been changed. We owe it to these students to ensure they can achieve their educational goals. I suggest we allow students already in the System to complete their degrees before we allow new

high school graduates or other new students to enter the System. To sweep the rug out from under current students and destroy their coursework will decimate years of educational strides which would help individuals to change their lifestyles.

MR. KLAICH:

I cannot make that commitment at this time. I do not know how, under the worst-case scenario, we can take \$162 million away from the budget, lose the potential for approximately 8,300 SFTE and say we will absolutely serve the currently enrolled students. We have multiple year curricula and to say we would see all current students through to graduation means there would ultimately be no new students in the freshman or sophomore classes. I cannot plan for institutions on that basis. We have committed to the Legislature to do everything we can to get the current students through their course majors or through a major closely aligned with the major in which they started.

SENATOR LEE:

Current students may ask, "Why should we register and pay fees for the next semester, when our ultimate goal may not be available at the end of our studies?" Is that what we are saying to the students in the satellite campuses?

MR. KLAICH:

That was a different question. My concern for students who are attending satellite campuses that may be closed is the distance they will need to travel to continue their studies. I was referring only to the number of students we are prepared to serve. Respectfully, we are talking about a joint commitment to those students already enrolled.

SENATOR LEE:

We talk in the abstract about fees, but these are real people, some of whom will go without a meal to succeed or provide for themselves.

For the record, this Senator believes the people in the System now have first right at all educational opportunities if the State can afford them. We will have to tell people who are upgrading their skills that they will have to wait until we get these people through. High school graduates, we would love to have you come here, but we made a commitment to these people first. Individuals attending community colleges should not have their dreams disregarded.

SENATOR MCGINNESS:

Have any surveys been done on enrollment losses which may result from increases in tuition? Have students continued their education in the past when fees have been increased?

MR. KLAICH:

The System does not believe there has been a significant number of students lost in the past when fees were increased. It could be a factor of some students not continuing but an equal, or similar, number of students enrolling. A survey has not been completed. Past fee increases have not been of the magnitude now being contemplated.

SENATOR HORSFORD:

I have not done surveys, but I have heard from my constituents and some of them cannot afford to pay beyond a reasonable fee increase. Ms. Aguirre testified today that students are willing to accept some fee increases if all of us are willing to share some of the responsibility. Should the entire budget reduction be placed on students? That is not fair. Increasing fees that bring Nevada to the median average of other western states is appropriate. I would rather make the increases over multiple years. However, this budget proposes all of the increases in the 2011-2013 biennium.

Some individuals may not consider a cost of \$1,500 per class excessive. Tell that to students who are trying to obtain an education on their own or families who are trying to contribute to the education of their children.

SENATOR HARDY:

What if we consider Scenario No. 2, which has the least impact, and look at the market forces involved with fees and tuition? I have discussed the increases with individuals in the graduate nursing program who say their tuition could be doubled. Some individuals would no longer be able to afford to enroll in the program.

In the physical therapy field, there is a program available at Nevada State College or other institutions versus the private industry which charges as much as four times more in tuition. If there are 30 student slots available and 400 qualified applicants, the market forces would seem to allow the System to charge more for particular programs. Tuition increases should not be made equally across the board.

We must consider other WICHE states who may see budget increases making space for Nevada students to attend.

The bridge or transition funding discusses the need to notify tenured staff of termination of employment. Page 7 of the Work Session Document states, "As identified, bridge funding does not represent General Funds and appears to be non-State, one-time funds or reallocated student fees collected for capital and general improvement purposes. One of the challenges before the Senate is to identify which programs or budgets are funded by the General Fund appropriations and which are funded by other funding sources. What is the nexus for the transition funding requirement? We struggle with the different funding sources included in the System budgets. I am suggesting a mix of market-based system supply and demand with a carve-out for the 15 percent or whatever amount is approved for a set-aside. Has NSHE had these discussions?"

MR. KLAICH:

You indicated that Scenario No. 2 appears to be less onerous than Scenario No. 1. That depends on where you are sitting. If you live in a community where colleges are merged or closed, it may be much more onerous to you.

With respect to the question on fees, the Board of Regents just adopted a policy with respect to differential fees. Moving slowly into differential fees is a wise policy that should be pursued in the future.

We operate under a Letter of Intent issued by the Legislature that splits student fee revenue approximately two-thirds to the State-supported operating budget and one-third retained by the campus collecting the fees for capital improvements and various other activities on campus.

SENATOR HARDY:

Recognizing there are private institutions that have similar programs which are filled to student capacity and must therefore turn additional individuals away, I see NSHE has the same scenario. It forms a virtual cap on enrollment because there is an insufficient number of slots available for differential fees to be directed to market force instructional areas. It appears to be the current policy at NSHE.

MR. KLAICH:

That is correct.

SENATOR HARDY:

Thank you.

SENATOR HORSFORD:

Seeing no further questions for the Chancellor, we will now seek testimony from the Governor's Chief of Staff and the Budget Director.

HEIDI GANSERT (Chief of Staff, Office of the Governor):

As mentioned yesterday, these economic times are tough. When construction of the current *Executive Budget* began, the State was already down about \$1.2 billion because of the loss of ARRA funding, caseload growth and reduced revenue at local levels. We recognize all of these budget reductions are difficult. We also know that all members of the Senate and everyone in the State supports higher education. The Governor, my husband and I are all graduates of the University of Nevada and therefore have great admiration for and appreciation of NSHE. There is a strong tie between economic development and the University System.

One reason the 9-cent property tax diversion was directed to higher education is because we believe the economy will recover and that the System has an influence on how the State recovers. We believe by applying the property tax diversion to higher education, as it grows once again, NSHE will see a positive benefit of that growth. The Governor's Office received some good news on Monday we wish to share. Unemployment is down, although it is still high. For the first time in more than 37 months, employment has increased.

As far back as when the Governor was a candidate, he had discussions with the Chancellor and members of the Board of Regents. Their request at that time was for autonomy to change tuition fees and to keep tuition funds at the institutions. They also discussed their willingness to provide accountability. They stated they were working on improving graduation and enrollment rates. Great strides are being made. A stabilization account was requested to retain the portion of funding typically reverted to the State at the end of each fiscal year.

Senate Bill 434 was introduced which accomplishes all those requests. With the budget reductions NSHE would be facing, we recognized that it was important to give them autonomy.

During the last two-year period, there was an expectation that ARRA funding or other one-shot funds would be replaced in the 2011-2013 budget. However, some of the colleges within NSHE recognized they might need to help themselves. I am on the advisory board for the College of Engineering at UNR. Therefore, I know they considered their upper unit classes and added a surcharge of approximately 50 percent to their tuition. The School of Architecture and the School of Nursing have added a surcharge to their tuition. The School of Physical Therapy in southern Nevada was able to double its tuition and still had long waiting lists for admittance. There is a sizeable demand for enrollment at these institutions.

Throughout the United States trends are for students paying a larger portion of their tuition. At NSHE, the taxpayers' portion of the cost of education versus the students' portion is approximately 73 percent from taxes and 23 percent paid by students. The taxpayer numbers are trending down and student support is trending up. An outstanding group of individuals comprise the Board of Regents and they will be making the final budget decisions regarding how to appropriate cuts and retain the core mission of the overall system.

The Governor's Office considers every institution to be important. We are concerned about the potential of rural campus closures. We trust the Board of Regents will have the judgment to ensure the core mission of NSHE is retained and that there is access to education throughout the State.

Fifteen percent of tuition increases will be set aside for financial aid. That is critical. Institutions must be offered at affordable levels and we must help those who may not have the means to afford tuition increases.

SENATOR HORSFORD:

I understand that allowing the 9-cent property tax revenue to be allocated to NSHE will help, in part, to mitigate the situation. I am unclear as to why only Clark and Washoe Counties were singled out for this diversion. Why are other counties that also benefit from the colleges and universities throughout the System not being asked to share in funding NSHE programs?

MS. GANSERT:

The property tax diversions are to be directed to UNR and UNLV because there is a strong nexus between economic development and education, and those institutions are the hubs of the System. We worked with both parties earlier on a bill to change the economic development model. A knowledge fund is under consideration. The intent is to tie NSHE into economic development at the two major institutions in the State.

SENATOR HORSFORD:

Why are the mining-rich counties such as Eureka and Lander not being asked to contribute as well? Those counties have healthy reserve accounts even in these difficult financial times. The budget impact may cause rural campuses to be closed. Why not allow the rural counties to help support the services of academic programs in their communities?

MS. GANSERT:

The Governor's Office considered the entire budget. When looking at the whole picture, other services are being pushed down to the local governments. Higher education, K-12 and Health and Human Services are all a part of those additional costs. We did not want to place undue strain on local governments although we felt certain health and human services programs are best provided at the local level.

The 9-cent property tax diversion is a continuation of a reallocation from the 2009 75th Legislative Session. That reallocation was only taken in Washoe and Clark Counties.

SENATOR LESLIE:

Are these diversions taken permanently through the *Executive Budget*?

ANDREW CLINGER (Director, Department of Administration):

That is correct. The bill that has been introduced contains a sunset of the provisions but that was not the budgetary intention.

SENATOR LESLIE:

I thought earlier testimony indicated the intent of the diversion was to be in place only until the economy recovers.

MS. GANSERT:

This piece of the budget is a permanent reallocation. The General Fund has been reduced and reallocation of these funds is tied to economic development.

SENATOR LESLIE:

If that is the case, was there any discussion with the counties regarding other ways to reduce their funding? These are capital funds. It seems if the funds will be permanently diverted, this may not be the best choice of a funding source.

SENATOR HORSFORD:

There are two parts to the 9-cent property tax. One part is capital funds and the other is operational funds. I know the counties want to be heard on this as well. Please expound on Senator Leslie's question that this is not just a continuation for the 2011-2013 biennium.

MR. CLINGER:

All I can do is restate what has already been discussed. The 9 cents is a continuation of the current procedure. We feel there is a greater impact from the universities in their respective counties than in other counties. There is an impact in other counties, but not to the same extent as in Washoe and Clark Counties.

SENATOR HORSFORD:

Have those impacts been evaluated? If, for instance, GBC which provides training in mining and other related mining activities is closed, that will have a tremendous economic impact on that region. I do not understand the logic in suggesting there is no economic benefit to those rural communities either by underfunding or funding their programs. The President of Great Basin College has said that the programs they are offering are directly aligned with the industries in that region. If those programs are closed, it would not only impact those students and staff, it would affect the industries that rely on that institution.

MS. GANSERT:

We have never contemplated the closure of any campuses. Those decisions will be made by the Board of Regents. The Governor's Office supports keeping all institutions open because of their criticality. There are two questions: the funding method and whether to keep all campuses open.

SENATOR HORSFORD:

You have answered that question, but you have not answered the question as to why the counties that benefit from those programs are not being asked to contribute to the costs in the same manner as what is asked of Clark and Washoe Counties. Why is that?

MS. GANSERT:

The intent was a continuation of the 2009 75th Legislature's actions with the diversion of the 9-cent property tax in Washoe and Clark Counties. The reallocation does not go to the General Fund. It goes directly to UNR and UNLV.

SENATOR HORSFORD:

Is your position that the diversion should stop at the end of the 2011-2013 biennium, because the continuation would be for two years? That was the intent of the 2009 75th Legislature's actions. Do you intend to make this a permanent diversion, or do you intend to end the diversion at the end of the upcoming biennium?

MS. GANSERT:

No, our recommendation is that the reallocation established by the 2009 75th Legislature become permanent. We believe there is a tie to economic growth. We want the System to receive the upside of that economic growth. The property tax revenue will increase over time and we felt that was a method to help the System in the long run, although it changes the basic funding structure.

SENATOR HORSFORD:

For clarity, if we continue the policy established two years ago, the reallocation would only be extended for two years. You are now proposing the diversion become permanent, a portion of which is from the operating accounts and another portion is from the county capital funding which is used to build police and other public safety facilities.

MS. GANSERT:

That is correct.

SENATOR MCGINNESS:

I hope this discussion is not moving toward a position of pitting urban Nevada against rural Nevada. All Nevadans are making do with less.

SENATOR HORSFORD:

I could not agree with the Minority Leader more. The diversion should be fair and equitable. I am trying to understand why only 2 of the 17 counties are being asked to carry the burden of the entire NSHE, when we know other counties have the ability and have healthy reserve accounts. I am also concerned because when I met with the county manager of Washoe County, I was told of the reductions that have occurred already and the impact of the 9-cent property tax diversion would have on that county and its residents. I am equally concerned about what that means to the communities in southern Nevada. I am not suggesting local governments should not be a part of the solution. However, if they are a part, it should be fair and equitable and certain counties should not be singled out while others are excluded. I cannot get an answer from the Administration as to why certain counties, with the means, were not asked to help fund higher education.

SENATOR DENIS:

Was your testimony that the Administration was trying to follow the actions of the 2009 75th Legislature?

MS. GANSERT:

The 9-cent tax diversion began in the 2009 75th Legislature. It was only a reallocation from Clark and Washoe Counties.

SENATOR DENIS:

Earlier discussions centered on the sunseting of other taxes. Why was that not also the recommendation for these tax diversions? Why were the other new taxes not continued as well?

MS. GANSERT:

The 9-cent tax diverted in 2009 was not a new tax. It was a part of something that would have sunsetted. Other 2009 taxation contained new revenue streams.

SENATOR HORSFORD:

If the Administration's intent was to adopt the 2009 plan, why was the continuation of other revenue streams not included? I think we already know the answer to that question.

At this time we will ask the county representatives to provide their perspective beyond what we have already heard.

LISA GIANOLI (Washoe County):

I want to clarify how we got to where we are today. There was a crisis in transportation during the 2007 74th Legislative Session. At that point in time, the diversion of 3 cents of the capital facilities tax was enacted. The original intent was only to divert those funds from Clark County. However, late in the session, Washoe County was included. Those diversions were done in 20 percent increments over a five-year period. Today, Washoe County would be sending 2.8 percent of our 5-cent capital facilities funds to transportation. Late in the Twenty-sixth Special Session, the full 5 cents was diverted plus 4 cents of operating funds that were supposed to sunset at the close of FY 2010-2011. Washoe County recently submitted a tentative budget diverting 2.8 cents of the capital facilities tax with 20 percent remaining for one year of the biennium to the Highway Fund for transportation.

Washoe County is therefore expecting diversions of approximately \$11 million. That means dramatic cuts to Washoe County and to services. I understand the economic exigencies faced by the State, but I am sure these diversions are also having a significant impact on Clark County as well.

CONSTANCE BROOKS (Clark County):

Clark County also understands the dire straits the State is facing with regard not only to higher education, but to all vital services. However, in Clark County, the 9-cent diversion is equal to approximately \$117 million. The 9-cent diversion from 2009 was devastating. Clark County has experienced several hundred layoffs, we have been taxed with demands for services, and increasing demands in the area of social services and child welfare.

The 4 cent portion of the 9-cent tax is our operating rate dedicated to those services for which demand is increasing. In this economic crisis, the need for social services, including medical assistance, rental assistance and other services for individuals who are facing crisis situations is growing. We would like to continue to provide services and meet the needs of our communities, but it will be very difficult to do so if the 9-cent property tax diversion is continued.

SENATOR HARDY:

Are the funding losses of \$11 million and \$117 million, respectively, on an annual basis rather than a biennial basis?

MS. GIANOLI:

That is correct. These are annual losses.

SENATOR HORSFORD:

Is that correct for Clark County's losses as well?

MS. BROOKS:

It is the same for Clark County. The impact from the 5-cent diversion is an annual loss of \$65 million and the impact from the 4-cent diversion is \$54 million annually.

SENATOR LESLIE:

My question is more of a structural issue. The 5-cent tax is directed to capital funding. Therefore, taxpayers expect it to be spent for those purposes. Now we are permanently diverting the funds to economic development. Does that make sense? Are there other options?

MS. GIANOLI:

Washoe County traditionally used the 5-cent tax revenue to service debt for infrastructure. Those funds are distributed to the county. Of the roughly 70 percent retained by the county, 20 percent is redirected to the City of Reno and 10 percent is directed to the City of Sparks. Because the changes in 2007 were made in 20 percent increments, there was some time to react to the reductions. County General Fund dollars have been used to offset those losses. Now, with

the reduction of 4-percent, operating funds which have been used to service debt, major adjustments have been made. The loss of operating funds and the push downs in social services will not leave much room to make further adjustments.

MS. BROOKS:

It is also important to note that the capital funds we would use for infrastructure projects provides opportunities for job creation.

SENATOR HORSFORD:

We will now invite Regent Ron Knecht to speak and then open the meeting to public testimony.

RON KNECHT (Member, Board of Regents):

I am an elected member of the Board of Regents from this district. I am speaking as an individual member of the Board and a private citizen. I am not speaking on behalf of the Board.

I will provide long-term and short-term perspectives of the NSHE budgets. I will also address a couple of policy issues.

I do not envy the Legislature the tasks it faces. Over the last ten years, State spending on higher education and on all matters has grown faster than our economy.

Personal income of Nevadans has grown 65 percent; however, 28 percent of that increase is attributable to inflation. At the same time, all State General Fund spending grew by 116 percent. Public Safety spending grew by 79 percent, higher education by 86 percent, human services, including Medicaid, grew by 118 percent and State spending on K-12 education grew by 128 percent. Over the last three years, the numbers are different but the pattern is the same. State spending grew by 6 percent while Nevadans' incomes declined by 6 percent. These figures are different than much of the current commentary. We tend to focus too much on budgets and not on actual year-to-year spending. A focus on budget numbers is misleading, somewhat meaningless and greatly overstated.

Using higher education figures, you have probably heard about \$45 million to \$50 million in budget reductions over the past two to three years at the two universities. That is a phantom budget number that was never spent to today's spending levels. The actual reductions to the two universities have been between \$3 million to \$25 million annually. The total all-fund sources are either positive or negative depending on whether the specialty schools such as the medical school, law school or the dental school and other factors are included. If one tried to compare this budget with public spending, the budget data is not comparable. No family says they make \$80,000 one year, but due to head count, inflation expanded scope we really make \$90,000. If only \$83,000 is earned, one could say that family experiences a \$7,000 budget reduction. Families do not compute their budget or progress that way.

I will abbreviate my comments and submit my written testimony for the record.

Over the last three or four years during the economic depression, Nevada families have suffered far worse than the public sector.

The Governor has suggested to NSHE that we could take greater responsibility for our own funding. In the last ten years, our total General Fund support has grown 8 percent relative to the economy. Our tuition and fee revenue has grown at the rate of the economy, our self-supported funding has grown 45 percent faster than the economy and our grants and contracts have grown 15 percent faster than the economy. That equals an overall increase of 18 percent which is a good track record of self-help. It is reasonable to ask for continuation along that track going forward.

There are four things that would help us to accomplish that goal. The first would be a nine-line budget with each line representing one institution and one line for the System instead of the 27 line budget currently in place. It would give us the flexibility desired by the Governor. Secondly, cancellation of the Letter of Intent would allow the System to pull back increases in tuition and fees into education. Third, would be the authority to carry forward the cost savings realized from one budget year to another. Fourth is application of additional State revenues that may be realized in the next biennium to mitigate NSHE's second year budget reductions.

The vote taken by the Board of Regents did not indicate whether we support a tax increase. That is not in our purview. The motion we supported requests more revenue for higher education than proposed by the Governor.

Regarding institution closures, consolidations, mergers and so forth; the Chancellor detailed the effects on access at our community institutions and on the System as a whole within the parameters of the Governor's proposed budget reductions. The record of our April 8, 2011, hearing indicates each of those effects would be exacerbated if, instead of using the tier 1 plans from the institutions, we moved to closures. Essentially, the \$12.5 million alleged savings from the first year of the biennium is a gross figure that ignores the transition costs. The transition costs would be substantial and would occur in the 2011-2013 biennium. They would reduce the \$12.5 million to approximately zero. Further in the future, there may be some savings. At the same time, it would take funding from the institutions with the highest faculty to class loads, the lowest faculty pay rates and the largest classes. In short, institutions that pay the least would be moved to institutions with the lowest faculty class loads, the smallest class sizes, the highest faculty pay rate and therefore, the highest student costs.

The total student count in institutions would be reduced, faculty counts would be reduced and there would be a decrease in class and degree offerings.

I urge the Legislature not to consider any of the unnecessary tier 2 reductions. The necessary reductions can be made through tier 1 funding.

SENATOR HORSFORD:

All options are still under consideration and we are evaluating all means of budget reductions before any decisions are made. That is prudent for both the Legislature and the Board of Regents. Unfortunately, all the decisions we make have implications for this biennium as well as future Legislatures.

SENATOR MCGINNIS:

Mr. Knecht, did you indicate that if the regents are given the ability to do so, NSHE could be self-supporting?

MR. KNECHT:

Self-supporting might be a long-term goal. It is not something I am recommending or something that can be transitioned to immediately. It is reasonable to continue our track record of self-support going forward. I am not advocating no longer funding remaining public institutions. It is reasonable to look to the Board of Regents to seek self-support in the area of fees and tuitions and the grants and contract funding.

SENATOR HORSFORD:

I think that is appropriate. However, the testimony we just heard from the business community is that their investments in NSHE are, in part, contingent on the level of public sector support and the existing partnership. If the partnership is reduced, that may affect the private sector investment as well. That is part of the policy decision before this body.

SENATOR ROBERSON:

I am reviewing information that has been provided. Are you are telling this body that during the worst recession seen in this State, between FY 2007-2008 and FY 2009-2010, revenue from all sources for NSHE increased by 4 percent?

MR. KNECHT:

When all four primary sources are considered that statement is true. However, there is a serious fungibility problem with grants and contracts. The real reason for the increased spending has been our outstanding record of self-support.

SENATOR ROBERSON:

In the same time period, State spending from the General Fund only decreased by one percent. We do not hear this information from many sources. It also appears that since FY 1999-2000, State support for NSHE has increased 86 percent and support from all sources

has increased by 107 percent. Based on this information, I do not believe the problem is as severe as is being portrayed.

MR. KNECHT:

The 86 percent figure includes both General Fund and tuition and fees which are considered as other funding from the State. These are the worst times we have faced, but we will get through these difficulties.

SENATOR HORSFORD:

Does the 86 percent figure include the \$184 million in federal ARRA funds that was one-time funding in the last two years? Yes or no?

MR. KNECHT:

Not exactly.

SENATOR HORSFORD:

Do the figures Senator Roberson cited include the ARRA funding as part of the non-general fund support that was provided for in the last two years? Yes or no, it is a simple question.

MR. KNECHT:

Those figures do not exactly reflect it, if I may.

SENATOR HORSFORD:

If you do not know the answer, I can ask our Fiscal Staff.

MR. KNECHT:

I can answer it.

SENATOR HORSFORD:

This is a yes or no answer.

MR. KNECHT:

Yes, but, may I explain?

SENATOR HORSFORD:

No. That was my question.

SENATOR ROBERSON:

Why can Mr. Knecht not explain his answer?

SENATOR HORSFORD:

I asked for a yes or no answer to the question.

SENATOR ROBERSON:

Can I ask him a follow-up question?

SENATOR HORSFORD:

Senator Settelmeyer has the Floor.

SENATOR SETTELMAYER:

I have talked to my community college constituents and they indicated the Governor's budget was extremely difficult but they could persevere. I am aware initial meetings have been held and that closures were no longer under consideration. What information has come forward to change the discussions to once again include closures? Community colleges are such an important aspect of these communities.

MR. KNECHT:

It is difficult for me to say that any information has changed. The Board received more information on the tier 1 institution reductions of 31 percent or 32 percent of General Funds. You would need to poll the regents who changed their votes, when the information was received before the March 11, 2011, meeting having those options under discussion. At that time, the

regents concluded by a vote of 8 to 5 that the information on the tier 1 reductions indicated we did not need to consider tier 2 reductions. Subsequently, the Majority Leader requested we rescind that decision and a vote was taken on April 8, 2011, to rescind the earlier vote. Not much in the way of substantive changes occurred.

SENATOR SETTELMAYER:

I would like an explanation of the ARRA funding.

MR. KNECHT:

The simple explanation is that the ARRA funding for NSHE was all placed into FY 2008-2009. Therefore, in FY 2009-2010, our General Fund spending included no ARRA funding. The Legislature, for its purposes, moved other revenue into FY 2009-2010. When the FY 2009-2010 figures are divided by the FY 1999-2000 General Funds, ARRA funds are not included in either of those fiscal years. The ARRA funds were received and they were spent.

SENATOR HORSFORD:

It was not a part of the basic support provided by the State and is not now included in the Governor's budget. As referenced earlier by Director Clinger and our Fiscal Staff, the funds being replaced with property taxes will replace basic support funding separate and apart from the additional \$184 million reduction due to loss of ARRA funds. Those funds are shown as non-State support in the budgets.

SENATOR MCGINNESS:

I appreciate this open discussion. However, I am concerned there is a chilling effect if some of the members are not allowed to ask questions. I recognize Regent Knecht is incapable of giving a short answer, but the members should be allowed to ask questions.

SENATOR HORSFORD:

I agree. That was my question to which I requested a yes or no answer.

SENATOR ROBERSON:

What I am hearing is that if the ARRA funds had never existed, we would still see a 107 percent increase in all sources of NSHE funding from FY 1999-2000 to FY 2009-2010.

MR. KNECHT:

I cannot say that. If the ARRA funds had never existed, we would not have been able to move the allocation of FY 2009-2010 ARRA funds for higher education into the FY 2008-2009 spending and move the FY 2008-2009 General Funds into FY 2009-2010. The ARRA funds are reflected as a technical matter.

SENATOR HORSFORD:

Please provide a copy of those figures for our Staff.

MR. KNECHT:

I will provide that information for this body.

SENATOR HORSFORD:

What was the population growth between 2000 and 2010?

MR. KNECHT:

The population growth was approximately 40 percent. I have normalized the figures for population and head count.

SENATOR HARDY:

What is the per-student count in that calculation?

MR. KNECHT:

I have the gross figures and the per capita figures for both spending of the various categories and the economy in my workbook. I have normalized the figures for student counts and for population. The figures I quoted today are based on the per capita figures.

SENATOR SCHNEIDER:

The numbers appear to be adjusted to fit the story. Are universities and colleges based on the elite faculty who can be acquired?

MR. KNECHT:

They are based on the elite faculty and on the work-a-day faculty.

SENATOR SCHNEIDER:

When numbers are compiled for an institution, the system is trying to grow and improve so that perhaps it could be considered a Harvard of the West, the numbers provided do not reflect where the State and Legislature wish to go. Over the past two years, there have been faculty members who have fled this State because of the lack of commitment on the part of the Legislature and the Board of Regents. I reported those facts to this body two years ago. Why was the Board of Regents not reporting that same information? Why did the Board of Regents not testify that we are losing our great faculty? They are putting themselves on the market. They are leaving and in two weeks they get jobs as committee chairmen at elite schools. We are dismantling what we are doing here.

It is incumbent upon the Board of Regents to report to the Legislature. I am tired of operating the university and college system in this manner.

You, personally, are contributing to the tearing down the institutions by not appearing before this body and demanding that we do better. It is easy to make cuts and easy to come with stories about spending a little more money. Do we not want to get a better system? Do you want a better system or do you want to continue to make cuts and chase away the good faculty?

I know students who have gone to Stanford or Pepperdine University because of their faculty members. Those institutions score fantastic faculty members and they pay good money for them.

Nevada tends to chase good faculty off. We build the system up, but then a recession hits and we wipe out the good faculty.

SENATOR HORSFORD:

Before we recess, I wish to make a few statements.

Every member of this body can ask questions. The question I asked of Mr. Knecht was my question. I was only looking for a simple answer.

Closures and consolidations must be considered. I do not understand why a campus would remain open if it no longer has programs to offer students. It costs money to run facilities. If there are no students and no teachers and no programs, why do we maintain a building? That is why this must be a part of the discussion. I, like many of you, hope the decades of investments that have been made to build up these institutions are not whittled away in one budget decision that will have long-term negative consequences. I also hope we do not keep buildings open for the sake of keeping them open.

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

SENATE IN SESSION

At 1:18 p.m.

President Pro Tempore Schneider presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 9.

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

Motion carried.

Assembly Bill No. 150.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 181.

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

Motion carried.

Assembly Bill No. 215.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 227.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 267.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 269.

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

Motion carried.

Assembly Bill No. 292.

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

Motion carried.

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 1:24 p.m.

SENATE IN SESSION

At 1:26 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 318.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 329.

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

Motion carried.

Assembly Bill No. 393.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 398.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 403.

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

Motion carried.

Assembly Bill No. 429.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 455.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 477.

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

Motion carried.

Assembly Bill No. 535.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 537.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 551.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that the action whereby Assembly Bill No. 329 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

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

Remarks by Senator Wiener.

Motion carried.

Senator Wiener moved that Senate Bill No. 375 be taken from General File and re-referred to the Committee on Finance.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 180, 262, 315, 331, 368 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Gustavson moved that Senate Bill No. 283 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Parks moved that Senate Bill No. 233 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 21.

Bill read second time.

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

Amendment No. 406.

"SUMMARY—Revises ~~the requirements for reopening a claim of compensation for a permanent partial disability;~~ **certain provisions concerning catastrophic injuries.** (BDR 53-479)"

"AN ACT relating to industrial insurance; revising ~~the requirements for reopening a claim of compensation for a permanent partial disability;~~ **certain provisions concerning catastrophic injuries; specifying additional injuries that constitute a catastrophic injury; revising the qualifications of a certified vocational rehabilitation counselor; revising provisions governing claims for catastrophic injuries; revising the requirements of a life care plan developed by an insurer for an injured employee; revising the qualifications of an adjuster who administers a claim for a catastrophic injury;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law requires an insurer to reopen a claim of compensation for a permanent partial disability if the claimant proves three conditions are met: (1) the claim was closed and the claimant was not evaluated as required; (2) at the time of closing, the claimant met the qualifications for an evaluation; and (3) the insurer violated NRS 616D.120 with regard to the claim. (NRS 616C.392) NRS 616D.120 lists prohibited acts for which the Administrator of the Division of Industrial Relations of the Department of Business and Industry may seek penalties from an insurer, such as failure to pay, inducing a claimant to settle, refusing to process a claim, or intentionally failing to follow a statute or regulation, but does not refer to evaluations for a permanent partial disability.~~

~~This bill removes the third condition concerning a violation of NRS 616D.120, so a claimant, in order to reopen a claim, would be required to show that at the time his or her case was closed he or she was qualified to receive an evaluation and no evaluation was scheduled.~~ **Section 1.1 of this bill expands the definition of "catastrophic injury" for the purposes of industrial insurance to include an injury sustained from an accident and resulting in: (1) a coma or vegetative state; (2) the loss or significant impairment of function of one or more vital internal organs or organ systems; (3) the mangle, crushing or amputation of a major portion of an extremity; (4) an injury which the insurer and the injured employee agree should be administered as a catastrophic injury; or (5) an injury determined by the insurer to be a catastrophic injury.**

Section 1.2 of this bill revises the qualifications for certification as a certified vocational rehabilitation counselor. Section 1.7 of this bill revises the qualifications for an adjuster who administers a claim for a catastrophic injury.

Section 1.4 of this bill provides that an injured employee may submit a request to an insurer for a determination that an injury should be administered as a claim for a catastrophic injury. Section 1.4 further provides that an insurer must issue a written determination concerning such a request within 30 days after receipt of the request. Section 1.5 of this bill provides that an injury which is not originally determined to be a catastrophic injury may at any time be classified as a catastrophic injury if a change in the nature of the injury brings it within the definition of "catastrophic injury."

Under existing law, an insurer is required to develop a life care plan for an injured employee who suffers a catastrophic injury within 90 days after the insurer accepts the injured employee's claim. (NRS 616C.700) Section 1.6 of this bill requires the insurer to develop a life care plan within 120 days after the treating physician determines that the injured employee's injury has stabilized and that the injured employee requires a life care plan. Section 1.6 also sets forth specific requirements for the development and implementation of the life care plan.

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

Section 1. [NRS 616C.392 is hereby amended to read as follows:

616C.392 1. An insurer shall reopen a claim to consider the payment of compensation for a permanent partial disability if:

(a) The claim was closed and the claimant was not scheduled for an evaluation of the injury in accordance with NRS 616C.490;~~and~~

(b) The claimant demonstrates by a preponderance of the evidence that, at the time that the case was closed, the claimant was, because of the injury, qualified to be scheduled for an evaluation for a permanent partial disability .
};~~and~~

(c) ~~The insurer has violated a provision of NRS 616D.120 with regard to the claim.}~~

2. The demonstration required pursuant to paragraph (b) of subsection 1 must be made with documentation that existed at the time that the case was closed.

3. Notwithstanding any specific statutory provision to the contrary, the consideration of whether a claimant is entitled to payment of compensation for a permanent partial disability for a claim that is reopened pursuant to this section must be made in accordance with the provisions of the applicable statutory and regulatory provisions that existed on the date on which the claim was closed, including, without limitation, using the edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that was applicable on the date the claim was closed.] **(Deleted by amendment.)**

Sec. 1.1. NRS 616A.077 is hereby amended to read as follows:

616A.077 "Catastrophic injury" means an injury sustained from an accident and resulting in:

1. The total loss of sight in one or both eyes;
2. The total loss of hearing in one or both ears;
3. The loss by separation of any arm or leg;
4. An injury to the head or spine which results in paralysis of the legs, the arms or both the legs and arms;

5. An injury to the head which results in severe cognitive impairment, as determined by a nationally recognized method of objective psychological testing;

6. An injury consisting of second or third degree burns on 50 percent or more of:

- (a) The body;
- (b) Both hands; or
- (c) The face;

7. The total loss of or significant and permanent impairment of speech;
~~for~~

8. **A coma or vegetative state;**

9. The loss or significant impairment of function of one or more vital internal organs or organ systems;

10. The mangled, crushing or amputation of a major portion of an extremity;

11. An injury which the insurer and the injured employee agree should be administered as a claim for a catastrophic injury;

12. An injury determined to be a catastrophic injury pursuant to section 1.4 of this act; or

13. Any other category of injury deemed to be catastrophic as determined by the Administrator.

Sec. 1.2. NRS 616A.080 is hereby amended to read as follows:

616A.080 "Certified vocational rehabilitation counselor" means a person who:

1. Has a master's degree in rehabilitation counseling; ~~for~~
2. Has been certified as a rehabilitation counselor ~~for an insurance rehabilitation specialist~~ by the Commission on Rehabilitation Counselor Certification ~~for which is a division of the Board for Rehabilitation Certification~~; or

3. Has been certified as an insurance rehabilitation specialist by the Certification of Disability Management Specialists Commission.

Sec. 1.3. Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 and 1.5 of this act.

Sec. 1.4. 1. An injured employee may submit to an insurer a written request for a determination that his or her injury should be administered as a claim for a catastrophic injury.

2. If an employee submits a written request to an insurer pursuant to subsection 1, the insurer shall issue a written determination concerning the request not later than 30 days after receipt of the request.

Sec. 1.5. An insurer that did not originally accept a claim as a claim for a catastrophic injury shall designate the claim as a claim for a catastrophic injury if at any time after the claim is accepted the injury satisfies the requirements for a catastrophic injury.

Sec. 1.6. NRS 616C.700 is hereby amended to read as follows:

616C.700 1. Notwithstanding any other provision of this chapter, if an insurer accepts a claim for a catastrophic injury, the insurer shall:

(a) As soon as reasonably practicable after the date of acceptance of the claim, assign the claim to a qualified adjuster, nurse and vocational rehabilitation counselor; ~~and~~

(b) Within ~~90~~ **120** days after the date ~~of acceptance of the claim,~~ **on which the treating physician determines that the condition of the injured employee has stabilized and that the injured employee requires a life care plan,** develop a life care plan in consultation with the adjuster, nurse and vocational rehabilitation counselor assigned to the claim pursuant to paragraph ~~+(a)+~~ **(a); and**

(c) Pay benefits and provide the proper medical services to the injured employee during the entire period of the development and implementation of the life care plan.

2. A life care plan which is developed pursuant to subsection 1 must ensure the prompt, efficient and proper provision of medical services to the injured employee.

3. ~~{The Administrator shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations prescribing:~~

~~(a) The form and content of a life care plan; and~~

~~(b) The frequency and method of communication by which the insurer shall contact the injured employee or the family members or representative of the injured employee.}~~ In developing a life care plan for an injured employee, the insurer, in consultation with the adjuster, nurse and vocational rehabilitation counselor assigned to the claim pursuant to paragraph (a) of subsection 1, shall assess the following:

(a) The number of home or hospital visits determined to be necessary or appropriate by the registered nurse and vocational rehabilitation counselor;

(b) The life expectancy of the injured employee;

(c) The medical needs of the injured employee, including, without limitation:

(1) Surgery;

(2) Prescription medication;

(3) Physical therapy; and

(4) Maintenance therapy;

(d) The effect, if any, of any preexisting medical condition; and

(e) The potential of the injured employee for rehabilitation, taking into account:

(1) The injured employee's medical condition, age, educational level, work experience and motivation; and

(2) Any other relevant factors.

4. A life care plan developed pursuant to paragraph (b) of subsection 1 must include, without limitation, a schedule for the adjuster, nurse and vocational rehabilitation counselor assigned to the claim pursuant to paragraph (a) of subsection 1 to meet or communicate with the injured employee, if practicable, and the treating physician to determine the need for, without limitation:

(a) Special medical attention or treatment;

(b) Psychological counseling or testing; and

(c) Any medical device, including, without limitation:

(1) A wheelchair;

(2) A prosthesis; and

(3) A specially equipped or designed motor vehicle.

5. A life care plan developed pursuant to paragraph (b) of subsection 1 must include a plan of action for treatment or vocational rehabilitation of

the injured employee or consideration of the possible permanent total disability of the injured employee.

6. In addition to any claim determination affecting the rights of an injured employee under his or her claim, or responses to requests on behalf of the injured employee for specific action or information on the claim or any other contact that may occur, an insurer shall:

(a) Schedule a personal meeting concerning the status of the claim to take place at least once per calendar month between the adjuster assigned to the claim pursuant to paragraph (a) of subsection 1 and the injured employee or a family member or designated representative of the injured employee; or

(b) If a personal meeting described in paragraph (a) is not practicable, provide a written report concerning the status of the claim and soliciting requests and information at least once per calendar month to the injured employee or a family member or designated representative of the injured employee. The report must be mailed to the injured employee or a family member or designated representative of the injured employee by first-class mail.

7. Except as otherwise provided in this subsection, a life care plan developed pursuant to paragraph (b) of subsection 1 must be based on the condition of the injured employee at the time the life care plan is established. If there is a substantial or significant change in the condition or prognosis of the injured employee, the insurer shall amend the life care plan to reflect the change in the condition or prognosis of the injured employee.

Sec. 1.7. NRS 616C.720 is hereby amended to read as follows:

616C.720 ~~1.1~~ An adjuster who administers a claim for a catastrophic injury must ~~be competent and qualified to administer such a claim.~~

~~2. The Administrator shall adopt regulations establishing qualifications for an adjuster to administer a claim for a catastrophic injury.:~~

1. Have at least 4 years of experience in adjusting workers' compensation claims for lost time; or

2. Have at least 2 years of experience in adjusting workers' compensation claims for lost time and work under the direct supervision of an adjuster who has at least 4 years of experience in adjusting such claims.

Sec. 2. This act becomes effective upon passage and approval.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Senate Bill No. 21 is one of the negotiated bills on worker compensation. This addresses catastrophic injuries. If someone has a catastrophic injury in worker's compensation, this certifies that we license vocational rehabilitation people. We move a person with a catastrophic injury into a separate category where there is a life plan drawn up for them. They do not have to navigate the system as a less severely injured person would. They are taken out of the system

and moved forward. This is a good bill. We have been working on this for four years. It is supported by all business entities and labor groups.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 99.

Bill read second time.

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

Amendment No. 305.

"SUMMARY—Makes various changes concerning consumer protection. (BDR 52-127)"

"AN ACT relating to consumer protection; requiring ~~the Consumer Affairs Division of the Department of Business and Industry to regulate the activities of grant writing services that do business in this State; requiring a~~ **certain** grant writing ~~service~~ **services** to register ~~and deposit security~~ with the ~~Division before doing business in this State;~~ **Director of the Department of Business and Industry; requiring the Director to publish a list of registered grant writing services on an Internet website maintained by the Director;** requiring a grant writing service to provide certain statements to a buyer before the execution of a contract for grant writing services; prescribing certain mandatory terms of a contract for grant writing services; ~~revising the definition of "goods and services" as that term relates to solicitations by telephone; revising criminal penalties for violations of provisions relating to solicitations by telephone;~~ providing penalties; ~~providing a fee;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Assembly Bill No. 561 of the 2009 Legislative Session temporarily eliminated the Commissioner of Consumer Affairs and the Consumer Affairs Division of the Department of Business and Industry for the 2009-2011 biennium. (Sections 3 and 4 of chapter 475, Statutes of Nevada 2009, pp. 2696-97) As a result, the Attorney General assumed sole responsibility for the enforcement of the provisions of chapter 598 of NRS governing deceptive trade practices and the provisions of chapter 599B of NRS governing solicitations by telephone. Effective July 1, 2011, the Commissioner of Consumer Affairs and the Consumer Affairs Division will be restored and will again share responsibility for the enforcement of these provisions with the Attorney General.~~

Section 24 of this bill revises the definition of "goods or services" for the purpose of the provisions governing solicitations by telephone to clarify that the term includes, without limitation, any service, loan or any other extension of credit, insurance or any investment or opportunity for investment.

Existing law provides for graduated penalties for willful violations of the provisions governing solicitations by telephone. A person who willfully violates such provisions is guilty of a misdemeanor for the first offense

~~within 10 years. For the second offense within 10 years, the person is guilty of a gross misdemeanor. For the third and all subsequent offenses within 10 years, such a person is guilty of a category D felony and is subject to imprisonment, a fine of not more than \$50,000, or both imprisonment and a fine. (NRS 599B.255) Section 25 of this bill makes any willful violation of the provisions governing solicitations by telephone a category B felony, punishable by imprisonment, a fine of not less than the amount lost by all buyers who are injured by the violation plus an additional amount of not less than \$10,000 and not more than \$50,000, or by both imprisonment and a fine.~~

Sections 2-23 of this bill create provisions governing grant writing services in this State and vest the ~~{Commissioner and the Division}~~ **Director of the Department of Business and Industry** with authority to enforce these provisions. Section 7 defines "grant writing service." ~~{Sections 9-12 and 14 establish registration requirements for grant writing services, including the payment of a registration fee, and requirements concerning the deposit of security with the Division.}~~ Section 9 requires certain grant writing services to register with the Director, but exempts from the provisions of sections 2-23 certain grant writing services that offer services relating to affordable housing and community development projects. Section 9 also requires the Director to publish a list of registered grant writing services on an Internet website maintained by the Director.

Section 13 prohibits a grant writing service from engaging in certain activities. ~~{Section 15 requires a grant writing service to provide certain written statements to a buyer before the execution of a contract or before the receipt of any payment by the grant writing service.}~~ Section 16 establishes certain requirements for a contract for grant writing services. ~~{Section 17 sets forth the circumstances which create an irrefutable presumption that a person intends to do business and is regularly conducting business in Nevada. Section 20 provides a remedy for any buyer injured by a grant writing service, and section 21 provides that a person who violates sections 2-23 is guilty of a category B felony.}~~ Section 22 authorizes the Director to take certain actions if a person violates the provisions of sections 2-23 and provides that such a violation is a deceptive trade practice. Section 23 requires the ~~{Division}~~ **Director** to adopt regulations to carry out the provisions of sections 2-23.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this act.

Sec. 2. *As used in sections 2 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Buyer" means a natural person who is solicited to purchase or who purchases the services of a grant writing service.*

Sec. 3.5. *"Director" means the Director of the Department of Business and Industry.*

Sec. 4. *(Deleted by amendment.)*

Sec. 5. *(Deleted by amendment.)*

Sec. 6. *"Grant" means any money given by a governmental entity or any other person or organization to finance a specific or general purpose.*

Sec. 7. *"Grant writing service" means a person who, with respect to obtaining any grant or other payment, loan or money, advertises, sells, provides or performs, or represents that he or she can or will sell, provide or perform, any of the following services in return for the payment of money or other valuable consideration:*

1. *Writing an application for a grant for a buyer.*
2. *Obtaining a grant for a buyer.*
3. *Providing advice or assistance to a buyer in obtaining a grant.*

Sec. 8. *(Deleted by amendment.)*

Sec. 9. 1. ~~*[Each]*~~ *Except as otherwise provided in subsection 3, each grant writing service regulated by the provisions of sections 2 to 23, inclusive, of this act shall apply for registration on the form prescribed by the [Division].*

~~*2. At the time of application for registration, an applicant shall pay to the Division an administrative fee of \$25 and deposit the security required pursuant to section 10 of this act with the Division.*~~

~~*3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:*~~

- ~~*(a) Is not transferable or assignable; and*~~
- ~~*(b) Expires 1 year after it is issued.*~~

~~*4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.]*~~ *Director. Upon approval of an application submitted pursuant to this subsection, the Director shall issue a certificate of registration to the grant writing service.*

2. The Director shall publish on an Internet website maintained by the Director a complete list of all grant writing services which are registered pursuant to this section.

3. The provisions of sections 2 to 23, inclusive, of this act do not apply to a grant writing service which provides services relating to an affordable housing and community development project which is financed, in whole or in part, by tax credits for low-income housing, private activity bonds or money provided by a private entity, government, governmental agency or political subdivision of a government, including, without limitation, any

money provided pursuant to 12 U.S.C. § 1701q, 26 U.S.C. § 42, 42 U.S.C. § 8013 or 42 U.S.C. §§ 12701 et seq.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. A grant writing service shall not:

~~1. Charge or receive any money or other valuable consideration before full and complete performance of the services that the grant writing service has agreed to perform for or on behalf of the buyer.~~

~~2. If the grant writing service makes a promise express or implied that the grant writing service can or will obtain a grant for a buyer, charge or receive any money or other valuable consideration before the buyer has received the grant.~~

~~3. Charge or receive any money or other valuable consideration solely for referral of a buyer to a governmental entity or other person or organization which provides grants.~~

~~4. Make a false or misleading representation in the offer or sale of the services of the grant writing service.~~

~~5. Hire or obtain the services of a seller, as that term is defined in NRS 599B.010, who does not comply with the provisions of chapter 599B of NRS.~~

4. Advertise his or her services or conduct business in this State unless the grant writing service is registered pursuant to section 9 of this act.

5. Execute a contract with a buyer or receive any money or other valuable consideration from a buyer before the grant writing service provides to the buyer:

(a) A written statement which must be printed in at least 10-point bold type and which must include, without limitation:

(1) A detailed description of the services to be performed by the grant writing service for the buyer and the total amount the buyer is obligated to pay for those services;

(2) The physical address of the grant writing service and the non-toll free telephone number of the grant writing service;

(3) A statement that the grant writing service is registered pursuant to section 9 of this act; and

(4) Any other information required by the Director; and

(b) A copy of the certificate of registration issued to the grant writing service pursuant to section 9 of this act.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. ~~17.~~ A contract between a buyer and a grant writing service for the purchase of the services of the grant writing service:

~~(a)~~ 1. Must be in writing.

~~(b)~~ 2. Must be signed by the buyer.

~~(c)~~ 3. Must be dated.

~~[(d)]~~ **4. Must clearly indicate above the signature line that the buyer may cancel the contract within 5 days after execution of the contract by giving written notice to the grant writing service of his or her intent to cancel the contract. If the notice is mailed, the notice must be postmarked not later than 5 days after the execution of the contract.**

~~f 2. A grant writing service shall retain a copy of each contract executed by a buyer and the grant writing service for not less than 2 years.]~~

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. 1. ~~[The provisions of sections 2 to 23, inclusive, of this act are not exclusive and do not relieve the parties or contracts subject thereto from compliance with any other applicable provision of law.~~

~~2. The remedies provided in sections 20 and 21 of this act for a violation of any provision of sections 2 to 23, inclusive, of this act are in]~~ In addition to any other procedures or remedies for any violation or conduct provided for in any other law f

~~3.]~~ if the Director determines that a person has violated any provision of sections 2 to 23, inclusive, of this act, the Director may:

(a) Issue an order to the person to cease and desist from engaging in the practice or activity constituting the violation;

(b) Order the person to pay the costs of any investigation of the violation incurred by the Director;

(c) Order the person to provide restitution for any money or property improperly received or obtained by the person as a result of the violation; and

(d) Impose a civil penalty in an amount not to exceed \$10,000 for each violation.

2. Any violation of sections 2 to 23, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 23. ~~The [Division]~~ Director shall adopt such regulations as are necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.

Sec. 24. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Consumer" means a person who is solicited by a seller or salesperson.

4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

5. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

6. "Goods or services" means any property, ~~≠~~

~~(a) Any property or product, whether~~ tangible or intangible, real, personal or mixed, and any other article, commodity or thing ~~≠~~

~~(b) Any service, including, without limitation, financial service;~~

~~(c) A loan or any other extension of credit;~~

~~(d) Insurance;~~

~~(e) Any investment or opportunity for investment;~~

~~(f) A prize, bonus, award, gift or any other inducement to act; or~~

~~(g) Anything~~ of value.

7. "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

8. "Recovery service" means a business or other practice whereby a person represents or implies that he or she will, for a fee, recover any amount of money that a consumer has provided to a seller or salesperson pursuant to a solicitation governed by the provisions of this chapter.

9. "Salesperson" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

↳ except that a person is not a salesperson if his or her only function is to identify a consumer by name only and he or she immediately refers the consumer to a salesperson.

10. Except as otherwise provided in subsection 11, "seller" means any person who, on his or her own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salespersons or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) ***That the product offered for sale is the services of a grant writing service, as that term is defined in section 7 of this act;***

(6) That the product offered for sale is the services of a recovery service; or

~~{(6)}~~ (7) That the consumer will receive a premium or goods or services if he or she makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he or she makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

11. "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his or her license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his or her license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his or her license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or \$50, whichever is less; or

(2) The consumer provides a donation of \$50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, videocassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

- (2) Includes the business address of the person;
 - (3) Includes at least 24 pages of written material and illustrations;
 - (4) Is distributed in more than one state; and
 - (5) Has an annual circulation by mailing of not less than 250,000.
- (l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.
- (m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.
- (n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.
- (o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his or her license.
- (p) A person soliciting the sale of services provided by a video service provider subject to regulation pursuant to chapter 711 of NRS.
- (q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than \$100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.
- (r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:
- (1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and
 - (2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.
- (s) A person soliciting only the sale of telephone answering services to be provided by the person or his or her employer.
- (t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:
- (1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.; and
 - (2) The registration or license has not expired or been suspended or revoked.
- (u) A person who contracts for the maintenance or repair of goods previously purchased from the person:
- (1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a non-restricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his or her license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 25. (Deleted by amendment.)

Sec. 25.5. The Director of the Department of Business and Industry shall adopt any regulations necessary to carry out the provisions of sections 2 to 23, inclusive, of this act on or before October 1, 2011.

Sec. 26. This act becomes effective ~~on July 1, 2011,~~ upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

Senator Halseth moved the adoption of the amendment.

Remarks by Senator Halseth.

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

Amendment No. 305 to Senate Bill No. 99 deletes the references to the Division of Consumer Affairs and assigns the responsibilities under the bill to the Director of the Department of Business and Industry.

The amendment deletes many of the provisions in the original bill and establishes a more focused regulatory apparatus for grant writing services. For example, the amendment provides that the bill does not apply to a consultant for certain affordable housing and community development projects. It also leaves the existing statutory definition of the term "goods and services" unchanged.

It establishes a registration process for grant writers with the Director and provides remedies and penalties the Director may impose for noncompliance.

The amendment also changes the effective dates of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 113.

Bill read second time.

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

Amendment No. 134.

"SUMMARY—Revises provisions relating to the care of certain children during disasters. (BDR 38-198)"

"AN ACT relating to children; requiring foster homes to develop and implement plans to care for children during a disaster; requiring agencies which provide child welfare services to develop and implement such plans; requiring the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations to establish the minimum requirements and procedures for such plans; requiring the Division to develop a plan to care for ~~certain~~ children in the custody of another agency which provides child welfare services during a disaster; providing a penalty ~~for~~ in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations in consultation with other agencies which provide child welfare services to establish minimum requirements and procedures for plans regarding the care of children in their custody during a disaster. In addition, section 5 requires each agency which provides child welfare services to develop and implement a plan for the care of children in its custody during a disaster which is consistent with those regulations and provide a copy of that plan to each person or entity who has physical custody of such children. Section 6 of this bill requires the Division to develop a plan for the care of children in the custody of other agencies which provide child welfare services during a disaster to ensure that the Division is prepared to meet the needs of those children if the other agency is unable to meet those needs. Section 1 of this bill requires a foster home to develop and implement a plan for the care of children in the foster home during ~~[disasters and requires the]~~ a disaster which is consistent with plans and regulations adopted by the Division ~~[of Child and Family Services of the Department of Health and Human Services to prescribe the minimum requirements and procedures for such plans. A violation of the requirement to develop and implement a plan pursuant to section 1 is a misdemeanor. (NRS 424.100)]~~

~~Section 3 of this bill requires the Division to develop a plan to care for children during disasters if an agency which provides child welfare services is unable to respond to the needs of children in its custody during such disasters. Section 3 also requires the Division to provide a summary of the plan to the Legislative Committee on Child Welfare and Juvenile Justice and to post a summary of the plan on its Internet website.] and other agencies which provide child welfare services pursuant to sections 5 and 6. Sections 8 and 9 of this bill similarly require a facility for the detention~~

of children to develop and implement such a plan which is consistent with the plans and regulations adopted pursuant to sections 5 and 6.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a foster home shall develop and implement a plan for the care of children in the foster home during ~~disasters~~ a disaster. The plan must be developed and implemented in accordance with the plans and regulations adopted pursuant to ~~subsection 2.~~

~~*2. The Division shall, in consultation with each licensing authority in a county whose population is 100,000 or more, adopt regulations concerning the development and implementation of plans for the care of children in foster homes during disasters, including, without limitation, minimum requirements and procedures for such plans.*~~

~~*3. sections 4 and 5 of this act.*~~

2. As used in this section, "disaster" ~~means a fire, flood, earthquake, explosion, civil disturbance or any other occurrence or threatened occurrence that, regardless of cause:~~

~~*(a) Results in, or may result in, widespread or severe damage to property or injury to, or the death of, persons in a foster home; or*~~

~~*(b) As determined by a licensing authority or a licensee that operates a foster home, requires immediate action to protect the health, safety and welfare of persons in the foster home.*~~ ***has the meaning ascribed to it in section 4 of this act.***

Sec. 2. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of NRS 424.020 to 424.090, inclusive, ***and section 1 of this act*** do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

(a) Related to the caregiver by blood, adoption or marriage; and

(b) Not in the custody of an agency which provides child welfare services.

7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:

(a) The caregiver is related to the child within the fifth degree of consanguinity; and

(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~+~~, *and section 1 of this act.*

Sec. 3. Chapter 432 of NRS is hereby amended by adding thereto ~~in a new section to read as follows:~~ **the provisions set forth as sections 4, 5 and 6 of this act.**

Sec. 4. *As used in sections 4, 5 and 6 of this act, unless the context otherwise requires, "disaster" means a fire, flood, earthquake, explosion, civil disturbance or any other occurrence or threatened occurrence that, regardless of cause:*

1. Results in, or may result in, widespread or severe damage to property or injury to, or the death of, children in the custody of an agency which provides child welfare services; or

2. As determined by the Division, requires immediate action to protect the health, safety and welfare of children in the custody of an agency which provides child welfare services.

Sec. 5. *1. Each agency which provides child welfare services shall develop and implement a plan for the care of children in its custody during a disaster. The plan must be developed and implemented in accordance with the regulations adopted pursuant to subsection 2 and must be provided to each person or entity which has physical custody of the children.*

2. The Division shall, in consultation with each other agency which provides child welfare services, adopt regulations which concern the development and implementation of plans for the care of children in the custody of an agency which provides child welfare services during a disaster and which establish the minimum requirements and procedures for such plans. Such regulations must require that the plans include, without limitation, a plan for:

(a) Providing temporary shelter to children;

(b) Evacuating children from the home;

(c) Caring for children with disabilities or who have special medical needs;

(d) Communicating with the persons or entities which have physical custody of the children before, during and after a disaster;

(e) Coordinating with other emergency management entities and juvenile courts during a disaster; and

(f) Providing services to children to address the emotional impact of the disaster.

3. The regulations adopted pursuant to subsection 2 must include, without limitation, regulations concerning the development and implementation of plans for the care of children in the custody of an agency which provides child welfare services who have been placed in a facility for the detention of children.

Sec. 6. *1. The Division shall develop a plan for the care of children in the custody of other agencies which provide child welfare services during ~~[disasters]~~ a disaster to ensure that the Division for a designee of*

~~the Division meets]~~ is prepared to meet the needs of children in the custody of [agencies] each other agency which [provide] provides child welfare services if an agency is unable to meet the needs of children in its custody during a disaster. The Division may implement the plan at any time if the Division determines that it is necessary, regardless of whether the agency which provides child welfare services has requested assistance.

2. The Division shall provide such training as it deems necessary to ensure that staff is aware of the plan that is developed and that the staff responsible for carrying out the plan understand their responsibilities and are prepared to carry out those responsibilities. Any such training may include, without limitation, exercises to allow staff to practice carrying out their responsibilities during a disaster.

3. The Division shall submit to the Legislative Committee on Child Welfare and Juvenile Justice and post on its Internet website a summary of the plan for the care of children during [disasters] a disaster developed pursuant to this section. If the Division makes any changes to the plan, the Division shall provide to the Committee and post on its Internet website an updated summary of the plan.

~~f 3. As used in this section, "disaster" means a fire, flood, earthquake, explosion, civil disturbance or any other occurrence or threatened occurrence that, regardless of cause:~~

~~(a) Results in, or may result in, widespread or severe damage to property or injury to, or the death of, children in the custody of an agency which provides child welfare services; or~~

~~(b) As determined by the Division, requires immediate action to protect the health, safety and welfare of children in the custody of an agency which provides child welfare services.]~~

~~[Sec. 4.]~~ **Sec. 7.** NRS 432.0305 is hereby amended to read as follows:
432.0305 The Department, through the Division, shall:

1. Observe and study the changing nature and extent of the need for child welfare services and develop through tests and demonstrations effective ways of meeting those needs.

2. Cooperate with the Federal Government in adopting state plans, in all matters of mutual concern, including the adoption of methods of administration found by the Federal Government to be necessary for the efficient operation of programs for child welfare, and in increasing the efficiency of those programs by prompt and judicious use of new federal grants which will assist the Division in carrying out the provisions of NRS 432.010 to 432.085, inclusive ~~[-], and [section 3]~~ **sections 4, 5 and 6 of this act.** The Department shall consider any request for a change in the state plan submitted by an agency which provides child welfare services.

3. Enter into reciprocal agreements with other states relative to services for child welfare and institutional care, when deemed necessary or convenient by the Administrator.

4. Enter into agreements with an agency which provides child welfare services in a county whose population is 100,000 or more when deemed necessary or convenient by the Administrator.

5. Accept money from and cooperate with the United States or any of its agencies in carrying out the provisions of NRS 432.010 to 432.085, inclusive, ~~and section 37~~ **sections 4, 5 and 6 of this act** and of any federal acts pertaining to public child welfare and youth services, insofar as authorized by the Legislature.

Sec. 8. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A facility for the detention of children to which a juvenile court commits a child shall develop and implement a plan for the care of children in the facility during disasters. The plan must be developed and implemented in accordance with the plans and regulations adopted pursuant to sections 4 and 5 of this act.

2. As used in this section, "disaster" has the meaning ascribed to it in section 4 of this act.

Sec. 9. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The superintendent of a facility shall develop and implement a plan for the care of children in the facility during disasters. The plan must be developed and implemented in accordance with the plans and regulations adopted pursuant to sections 4 and 5 of this act.

2. As used in this section, "disaster" has the meaning ascribed to it in section 4 of this act.

~~{Sec. 5.}~~ **Sec. 10.** This act becomes effective on July 1, 2011.

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 134 revises the provisions of Senate Bill No. 113 by requiring the Division of Child and Family Services to adopt regulations in consultation with other agencies that provide child welfare services to establish minimum requirements and procedures for plans regarding the care of children in their custody during a disaster. In addition, these child welfare agencies are required to develop and implement the plan that is consistent with the regulations and to disseminate it to each person or entity that has physical custody of a child who is in the custody of the agency and further requiring facilities for the detention of children to develop and implement a similar plan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 140.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 99.

"SUMMARY—Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)"

"AN ACT relating to traffic laws; prohibiting a person from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 1** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other similar device, or to send or read data using any such device, while operating a motor vehicle. **Section 1** further prohibits a person from using such a device for voice communications unless the device is used with an accessory which allows the person to communicate without using his or her hands, with certain limited exceptions. **Section 1** provides an exception to the prohibitions when the cellular telephone or other device is used by ~~law enforcement officers and other~~ certain emergency personnel and persons designated by a sheriff or chief of police or the Director of the Department of Public Safety who are acting within the course and scope of their employment. Additional exceptions apply if the person is using the cellular telephone or other device to report or request assistance relating to a medical emergency, a safety hazard or criminal activity, or if the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous. A violation of the provisions added by **section 1** is a misdemeanor and punishable by a fine of ~~[\$250]~~ **\$50** for a first offense within the immediately preceding 7 years, ~~[\$500]~~ **\$100** for a second offense within the immediately preceding 7 years and ~~[\$1,000]~~ **\$250** for a third or subsequent offense within the immediately preceding 7 years. However, section 4 of this bill provides that until January 1, 2012, a law enforcement officer must not issue a citation to a person for violating section 1 but must give the person a verbal or written warning. **Section 1** further provides that a first offense will not be treated as a moving traffic violation. Additionally, if a person is convicted of a third or subsequent offense, in addition to the fine, the driver's license of the person will be suspended for 6 months. **Section 2** of this bill makes the enhanced penalty for certain traffic violations that occur in a temporary traffic control zone applicable to violations of these new crimes.

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

Section 1. Chapter 484B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

(a) *Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.*

(b) *Use a cellular telephone or other handheld wireless communications device to engage in voice communications with the another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.*

2. *The provisions of this section do not apply to:*

(a) *A paid or volunteer firefighter, ~~law enforcement officer,~~ emergency medical technician, ambulance attendant or other person trained to provide emergency medical services who is acting within the course and scope of his or her employment.*

(b) *A person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment.*

(c) *A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.*

~~[(e)]~~ (d) *A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.*

3. *The provisions of this section do not prohibit the use of a voice-activated global positioning or navigation system that is affixed to the vehicle.*

4. *A person who violates any provision of subsection 1 is guilty of a misdemeanor and:*

(a) *For the first offense within the immediately preceding 7 years, shall pay a fine of ~~[\$250.]~~ \$50.*

(b) *For the second offense within the immediately preceding 7 years, shall pay a fine of ~~[\$500.]~~ \$100.*

(c) *For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of ~~[\$1,000.]~~ \$250.*

5. *A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130.*

6. ~~*If a person is found guilty of a third or subsequent offense of subsection 1, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for 6 months. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for 6 months. The court shall, within 5 days after issuing the order, forward to*~~

~~the Department of Motor Vehicles any licenses, together with a copy of the order.~~

~~7.7~~ **The Department of Motor Vehicles ~~f~~**

~~(a) Shall~~ **shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation.**

~~f (b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record.~~

~~8.7~~ **7. For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.**

8. As used in this section, "handheld wireless communications device" means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if:

(a) The person using the device has a license to operate the device, if required; and

(b) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held.

Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, **or section 1 of this act**, that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

➤ shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not

create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. The additional penalty imposed pursuant to subsection 1 must not exceed a total of \$1,000, 6 months of imprisonment or 120 hours of community service.

3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the designation of an area as a temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:

(a) A sign located before the beginning of such an area stating "DOUBLE PENALTIES IN WORK ZONES" to indicate a double penalty may be imposed pursuant to this section;

(b) A sign to mark the beginning of the temporary traffic control zone; and

(c) A sign to mark the end of the temporary traffic control zone.

4. A person who otherwise would be subject to an additional penalty pursuant to this section is not relieved of any criminal liability because signs are not erected as required by subsection 3 if the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

5. The requirements of subsection 3 do not apply to an area designated as a temporary traffic control zone:

(a) Pursuant to an emergency which results from a natural or other disaster and which threatens the health, safety or welfare of the public; or

(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.

6. A person who would otherwise be subject to an additional penalty pursuant to this section is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection 5, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

Sec. 3. NRS 707.375 is hereby amended to read as follows:

707.375 1. ~~{An}~~ *Except as otherwise provided in section 1 of this act, an* agency, board, commission or political subdivision of this State, including, without limitation, any agency, board, commission or governing body of a local government, shall not regulate the use of a telephonic device by a person who is operating a motor vehicle.

2. As used in subsection 1, "telephonic device" means a cellular phone, satellite phone, portable phone or any other similar electronic device that is handheld and designed or used to communicate with ~~{a}~~ *another* person.

Sec. 4. Notwithstanding the provisions of section 1 of this act, on or before December 31, 2011, a law enforcement officer shall not issue a citation for a violation of the provisions of section 1 of this act but shall issue a verbal or written warning to a person who violates those provisions informing the person that he or she has violated the provisions of section 1 of this act and of the penalties that will apply to such a violation after December 31, 2011.

Senator Breeden moved the adoption of the amendment.

Remarks by Senators Breeden and Denis.

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

SENATOR BREEDEN:

Amendment No. 99 to Senate Bill No. 140 expands the list of law enforcement personnel exempted from the provisions of the bill. The amendment reduces the fines for violations and stipulates that law enforcement will not issue citations for a violation until January 1, 2012. Any violations that occur between October 1, 2011, the bill's effective date, and December 31, 2011, would result in a verbal or written warning. Amendment No. 99 also excludes certain two-way communication devices from the definition of a "handheld wireless communications device."

SENATOR DENIS:

I would like clarification on the last statement where you said it excludes additional wireless devices.

SENATOR BREEDEN:

The intent of the bill was not to disrupt industries such as the trucking industry, the cab industry or the use of CB radios. We defined the actual device in the bill for the "push to talk" radios.

SENATOR DENIS:

Does that include short-wave radios?

SENATOR BREEDEN:

That will be dealt with in the next amendment.

Amendment adopted.

The following amendment was proposed by Senator Breeden:

Amendment No. 483.

"SUMMARY—Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)"

"AN ACT relating to traffic laws; prohibiting a person from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 1** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other similar device, or to send or read data using any such

device, while operating a motor vehicle. **Section 1** further prohibits a person from using such a device for voice communications unless the device is used with an accessory which allows the person to communicate without using his or her hands, with certain limited exceptions. **Section 1** provides an exception to the prohibitions when the cellular telephone or other device is used by law enforcement officers and other emergency personnel who are acting within the course and scope of their employment. Additional exceptions apply if : (1) the person is using the cellular telephone or other device to report or request assistance relating to a medical emergency, a safety hazard or criminal activity, ~~or if~~ : (2) the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous, ~~or~~ ; or (3) the person is a licensed amateur radio operator providing communications services in connection with a disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information. A violation of the provisions added by **section 1** is a misdemeanor and punishable by a fine of \$250 for a first offense within the immediately preceding 7 years, \$500 for a second offense within the immediately preceding 7 years and \$1,000 for a third or subsequent offense within the immediately preceding 7 years. **Section 1** further provides that a first offense will not be treated as a moving traffic violation. Additionally, if a person is convicted of a third or subsequent offense, in addition to the fine, the driver's license of the person will be suspended for 6 months. **Section 2** of this bill makes the enhanced penalty for certain traffic violations that occur in a temporary traffic control zone applicable to violations of these new crimes.

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

Section 1. Chapter 484B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

(a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.

(b) Use a cellular telephone or other handheld wireless communications device to engage in voice communications with the another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.

2. The provisions of this section do not apply to:

(a) A paid or volunteer firefighter, law enforcement officer, emergency medical technician, ambulance attendant or other person trained to

provide emergency medical services who is acting within the course and scope of his or her employment.

(b) A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.

(c) A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.

(d) A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information.

3. The provisions of this section do not prohibit the use of a voice-activated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense within the immediately preceding 7 years, shall pay a fine of \$250.

(b) For the second offense within the immediately preceding 7 years, shall pay a fine of \$500.

(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of \$1,000.

5. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130.

6. If a person is found guilty of a third or subsequent offense of subsection 1, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for 6 months. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for 6 months. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses, together with a copy of the order.

7. The Department of Motor Vehicles:

(a) Shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation.

(b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record.

8. As used in this section, "handheld wireless communications device" means a handheld device for the transfer of information without the use of

electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device.

Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, **or section 1 of this act**, that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

↪ shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. The additional penalty imposed pursuant to subsection 1 must not exceed a total of \$1,000, 6 months of imprisonment or 120 hours of community service.

3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the designation of an area as a temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:

(a) A sign located before the beginning of such an area stating "DOUBLE PENALTIES IN WORK ZONES" to indicate a double penalty may be imposed pursuant to this section;

(b) A sign to mark the beginning of the temporary traffic control zone; and

(c) A sign to mark the end of the temporary traffic control zone.

4. A person who otherwise would be subject to an additional penalty pursuant to this section is not relieved of any criminal liability because signs are not erected as required by subsection 3 if the violation results in injury to any person performing highway construction or maintenance or other work in

the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

5. The requirements of subsection 3 do not apply to an area designated as a temporary traffic control zone:

(a) Pursuant to an emergency which results from a natural or other disaster and which threatens the health, safety or welfare of the public; or

(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.

6. A person who would otherwise be subject to an additional penalty pursuant to this section is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection 5, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

Sec. 3. NRS 707.375 is hereby amended to read as follows:

707.375 1. ~~{An}~~ ***Except as otherwise provided in section 1 of this act,*** ***an*** agency, board, commission or political subdivision of this State, including, without limitation, any agency, board, commission or governing body of a local government, shall not regulate the use of a telephonic device by a person who is operating a motor vehicle.

2. As used in subsection 1, "telephonic device" means a cellular phone, satellite phone, portable phone or any other similar electronic device that is handheld and designed or used to communicate with ~~{a}~~ ***another*** person.

Senator Breeden moved the adoption of the amendment.

Remarks by Senators Breeden and Denis.

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

SENATOR BREEDEN:

Amendment No. 483 to Senate Bill No. 140 allows a person who is licensed as an amateur radio operator and who is providing communications services in connection with a disaster or emergency, participating in a drill, test or other exercise in preparation for a disaster or emergency or otherwise communicating public information to be exempt from the provisions of the bill that prohibit use of a handheld wireless communication device while driving.

This amendment also extends the same exemptions that we adopted in the Committee's amendment for members of search and rescue operations to the amateur radio operators.

SENATOR DENIS:

Is this the one where the short-wave radios used in emergencies are excluded?

SENATOR BREEDEN:

Yes, they are excluded, however, only when they are performing their essential duties.

SENATOR DENIS:

It includes drills also, not just an actual emergency?

SENATOR BREEDEN:

Correct.

SENATOR DENIS:

It does not include if they use their short-wave radio for other reasons.

SENATOR BREEDEN:

Correct.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 168.

Bill read second time.

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

Amendment No. 269.

"SUMMARY—Makes various changes concerning public health. (BDR 54-837)"

"AN ACT relating to public health; revising provisions governing access to certain medical records; requiring a physician or an osteopathic physician who performs an autopsy to submit a written report of the findings of the autopsy to the Board of Medical Examiners or the State Board of Osteopathic Medicine in certain circumstances; revising provisions governing the submission of certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia; revising provisions governing reports to the Board of Medical Examiners and the State Board of Osteopathic Medicine of a change in the privileges of ~~a physician, perfusionist, physician assistant or practitioner of respiratory~~ certain providers of health care; revising provisions governing the standard of proof in any disciplinary hearing before the Board ~~;~~ revising provisions governing access to and the data collected by the computerized program to track prescriptions of controlled substances developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety; increasing certain fees; of Medical Examiners; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that if the health care records of a patient are located within this State, a provider of health care must make the records available for physical inspection within 5 working days after they are requested.

Section 2 of this bill requires a physician who performs an autopsy and who determines that the death of the decedent is the result of an overdose of a controlled substance or dangerous drug to submit a written report of such findings to the Board of Medical Examiners. **Section 2** also requires the Board, upon receipt of such a report, to investigate the death of the decedent to determine whether the conduct of any physician contributed to the death. **Section 18 of this bill imposes similar requirements concerning an autopsy performed by an osteopathic physician.**

Existing law requires any hospital, clinic or other medical facility or medical society to report to the Board of Medical Examiners any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care while the person is under investigation and the outcome of any disciplinary action taken within 30 days after the change in privileges is made or disciplinary action is taken. **A hospital, clinic or other medical facility or medical society is also required to report such information to the State Board of Osteopathic Medicine concerning a change in the privileges of an osteopathic physician who is under investigation.** (NRS 630.307 ~~¶~~, 633.533) **Section 8 of this bill requires that such a report concerning a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care be made within 5 days after the change in privileges is made if the change in privileges is based on an investigation of the mental, medical or psychological competency of the person or suspected or alleged substance abuse by the person. Section 21 of this bill imposes similar reporting requirements concerning a change in the privileges of a physician assistant who is under investigation and a change in the privileges of an osteopathic physician or physician assistant if the change in privileges is based on an investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant or suspected or alleged substance abuse by the osteopathic physician or physician assistant.**

Section 10 of this bill provides that in any disciplinary hearing before the Board of Medical Examiners, a finding of the Board must be supported by a preponderance of the evidence.

~~† Section 17 of this bill requires that the computerized program to track prescriptions of controlled substances developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety be designed to provide information regarding data relating to the prescribing of controlled substances that is specific to a particular patient. Section 17 also requires the Board and the Division to monitor the prescription activity of prescribing practitioners and further provides that access to the information concerning particular patients must be restricted only to certain persons for the purpose of confirming the accuracy of the information after notice from the Board to a prescribing practitioner concerning the number of prescriptions written by the practitioner.~~

Existing law requires persons who are licensed to practice medicine by the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine by the State Board of Osteopathic Medicine to make certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license and the occurrence of any sentinel events arising from those surgeries. Persons who are licensed to practice medicine are required to submit the reports to the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine are required to submit the reports to the State Board of

Osteopathic Medicine. The boards are required to submit the reports to the Health Division of the Department of Health and Human Services which then reviews the reports. (NRS 449.447, 630.30665, 633.524) ~~[Section 18 of this bill repeals the provision which requires the Board of Medical Examiners to collect and submit the reports, and section 12 of this bill instead requires persons who are licensed to practice medicine to submit the reports directly to the Health Division.]~~

~~Section 5 of this bill increases the maximum amount of the fee that may be charged for the renewal of a limited, restricted, authorized facility or special license from \$400 to \$800.]~~ **Section 7.5 of this bill revises these reporting requirements as they pertain to a physician and requires a physician to report the occurrence of any sentinel event arising from a surgery requiring conscious sedation, deep sedation or general anesthesia within 14 days after the occurrence of the sentinel event. Section 20 of this bill imposes a similar reporting requirement on an osteopathic physician.**

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

Section 1. NRS 629.061 is hereby amended to read as follows:

629.061 1. Each provider of health care shall make the health care records of a patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority;

(e) An investigator for the Attorney General or a grand jury investigating an alleged violation of NRS 200.495, 200.5091 to 200.50995, inclusive, or 422.540 to 422.570, inclusive;

(f) An investigator for the Attorney General investigating an alleged violation of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive, or any fraud in the administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or in the provision of benefits for industrial insurance; or

(g) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

➤ The records must be made available at a place within the depository convenient for physical inspection. ~~[, and inspection must be permitted at all reasonable office hours and for a reasonable length of time.]~~ ***If the records are located within this State, the provider shall make any records requested pursuant to this section available for inspection within 5 working days after the request.*** If the records are located outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within 10 working days after the request.

2. Except as otherwise provided in subsection 3, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

3. The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

4. Each person who owns or operates an ambulance in this State shall make the records regarding a sick or injured patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority; or

(e) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

➤ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an ambulance shall also furnish a copy of the records to each person described in this subsection who requests it and pays the actual cost of postage, if any, and the costs of making the copy, not to exceed 60 cents per page for photocopies. No administrative fee or additional service fee of any kind may be charged for furnishing a copy of the records.

5. Records made available to a representative or investigator must not be used at any public hearing unless:

(a) The patient named in the records has consented in writing to their use;
or

(b) Appropriate procedures are utilized to protect the identity of the patient from public disclosure.

6. Subsection 5 does not prohibit:

(a) A state licensing board from providing to a provider of health care or owner or operator of an ambulance against whom a complaint or written allegation has been filed, or to his or her attorney, information on the identity of a patient whose records may be used in a public hearing relating to the complaint or allegation, but the provider of health care or owner or operator of an ambulance and the attorney shall keep the information confidential.

(b) The Attorney General from using health care records in the course of a civil or criminal action against the patient or provider of health care.

7. A provider of health care or owner or operator of an ambulance and his or her agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

8. For the purposes of this section:

(a) "Guardian" means a person who has qualified as the guardian of a minor pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

(b) "Living trust" means an inter vivos trust created by a natural person:

(1) Which was revocable by the person during the lifetime of the person; and

(2) Who was one of the beneficiaries of the trust during the lifetime of the person.

(c) "Parent" means a natural or adoptive parent whose parental rights have not been terminated.

(d) "Personal representative" has the meaning ascribed to it in NRS 132.265.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.

2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any physician contributed to the death of the decedent.

3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.

Sec. 3. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

- (a) Enforce the provisions of this chapter;
- (b) Establish by regulation standards for licensure under this chapter;
- (c) Conduct examinations for licensure and establish a system of scoring for those examinations;
- (d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and
- (e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence; ~~and~~

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and ~~4~~ 6 of NRS 630.307 and NRS 690B.250 and 690B.260 ~~and~~ and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➤ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 4. NRS 630.267 is hereby amended to read as follows:

630.267 1. Each holder of a license to practice medicine must, on or before July 1 , *or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1*, of each ~~alternate~~ *odd-numbered* year:

(a) Submit a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.

(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.

(c) Submit all information required to complete the biennial registration.

2. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State ~~is automatically suspended.~~ *expires*. The holder may, within 2 years after the date the license ~~is suspended,~~ *expires*, upon payment of twice the amount of

the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.

3. The Board shall make such reasonable attempts as are practicable to notify a licensee:

(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and

(b) That his or her license ~~is suspended.~~ *has expired.*

➤ A copy of this notice must be sent to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

Sec. 5. ~~NRS 630.268 is hereby amended to read as follows:~~

~~630.268 1. The Board shall charge and collect not more than the following fees:~~

~~For application for and issuance of a license to practice as a physician, including a license by endorsement~~	~~\$600~~
~~For application for and issuance of a temporary, locum tenens, — limited, restricted, authorized facility, special, special purpose — or special event license~~	~~400~~
~~For renewal of a limited, restricted, authorized facility or special license~~	~~[400] 800~~
~~For application for and issuance of a license as a physician assistant~~	~~400~~
~~For biennial registration of a physician assistant~~	~~800~~
~~For biennial registration of a physician~~	~~800~~
~~For application for and issuance of a license as a perfusionist or practitioner of respiratory care~~	~~400~~
~~For biennial renewal of a license as a perfusionist~~	~~600~~
~~For biennial registration of a practitioner of respiratory care~~	~~600~~
~~For biennial registration for a physician who is on inactive status ..~~	~~400~~
~~For written verification of licensure~~	~~50~~
~~For a duplicate identification card~~	~~25~~
~~For a duplicate license~~	~~50~~
~~For computer printouts or labels~~	~~500~~
~~For verification of a listing of physicians, per hour~~	~~20~~
~~For furnishing a list of new physicians~~	~~100~~

~~2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.~~

~~3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has~~

~~paid a cash deposit with the Board sufficient to defray all expenses of the meeting.} (Deleted by amendment.)~~

Sec. 6. NRS 630.2695 is hereby amended to read as follows:

630.2695 1. Each license issued pursuant to NRS 630.2694 expires on July 1 , *or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1*, of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to NRS 630.2691.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made ~~is automatically suspended and~~ may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to NRS 630.2692.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his or her license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 7. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation~~ **National Board** for Respiratory Care or its successor organization;

(d) Be certified by the ~~Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on~~

~~Accreditation]~~ **National Board** for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care,
 ➤ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 7.5. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit ~~annually~~ to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report ~~annually~~ to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 ~~whether~~ :

(a) At the time the holder of a license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.

4. In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 ~~and 2~~, **2 and 4;**

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection ~~5~~6.

~~5~~6. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, ~~for~~ 2 or 4 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~6~~7. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~7~~8. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

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

- (a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.
- (b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.
- (c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.
- (d) "Health Division" has the meaning ascribed to it in NRS 449.009.
- (e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 8. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine, perfusion or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~{Any}~~ *Except as otherwise provided in subsection 4, any* hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice while the physician, perfusionist, physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, perfusionist, physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, perfusionist, physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken.

4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice that is based on:

(a) An investigation of the mental, medical or psychological competency of the physician, perfusionist, physician assistant or practitioner of respiratory care; or

(b) Suspected or alleged substance abuse in any form by the physician, perfusionist, physician assistant or practitioner of respiratory care.

5. The Board shall report any failure to comply with ~~{this}~~ subsection 3 or 4 by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~{4-}~~ 6. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, perfusionist, physician assistant or practitioner of respiratory care:

- (a) Is mentally ill;
 - (b) Is mentally incompetent;
 - (c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;
 - (d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or
 - (e) Is liable for damages for malpractice or negligence,
- within 45 days after such a finding, judgment or determination is made.

~~{5-}~~ 7. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~{4-}~~.

~~6-}~~ 6.

8. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 9. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, perfusionist, physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, perfusionist, physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine, perfusion or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine, perfusion or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The **formal** complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the

board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 10. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because the witness was or is incompetent. ~~{Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.}~~

2. *A finding of the Board must be supported by a preponderance of the evidence.*

3. Proof of actual injury need not be established.

~~{3.}~~ 4. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine, perfusion or respiratory care is conclusive evidence of its occurrence.

Sec. 11. ~~{NRS 630.373 is hereby amended to read as follows:~~

~~630.373 1. A physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:~~

~~(a) In an office of a physician or osteopathic physician which holds a permit pursuant to NRS 449.435 to 449.448, inclusive [;], and section 12 of this act;~~

~~(b) In a facility which holds a permit pursuant to NRS 449.435 to 449.448, inclusive [;], and section 12 of this act;~~

~~(c) In a medical facility as that term is defined in NRS 449.0151; or~~

~~(d) Outside of this State.~~

~~2. As used in this section:~~

~~(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.~~

~~(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.~~

~~(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.}~~

(Deleted by amendment.)

Sec. 12. ~~{Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit annually to the Health Division, on a form provided by the Health Division, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the person at his or her office or any other facility, excluding any surgical care performed:~~

~~(a) At a medical facility; or~~

~~(b) Outside of this State.~~

~~2. In addition to the report required pursuant to subsection 1, each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit annually to the Health Division a report concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board for reporting information pursuant to NRS 439.835.~~

~~3. Each person who is licensed to practice medicine pursuant to chapter 630 of NRS shall submit the reports required pursuant to subsections 1 and 2 whether or not the person performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for the Board of Medical Examiners to initiate disciplinary action pursuant to subsection 9 of NRS 630.306.~~

~~4. The Health Division shall:~~

~~(a) Collect and maintain the reports received pursuant to subsections 1 and 2;~~

~~(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and~~

~~(c) Maintain the confidentiality of such reports in accordance with subsection 5.~~

~~5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~6. On or before February 15 of each odd-numbered year, the Health Division shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report of the information reported to the Health Division during the previous biennium pursuant to this section, including, without limitation, the number and types of surgeries performed by each person who is licensed to practice medicine pursuant to chapter 630 of NRS and the occurrence of sentinel events arising from such surgeries, if any. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.~~

~~7. In addition to any other remedy or penalty, if a person who is licensed to practice medicine pursuant to chapter 630 of NRS fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Health Division may, after providing the person with notice and opportunity for a hearing, impose against the person an administrative penalty for each such violation. The Health Division shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the person pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~8. As used in this section, "sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 449.435 is hereby amended to read as follows:~~

~~449.435 As used in NRS 449.435 to 449.448, inclusive, and section 12 of this act, unless the context otherwise requires, the words and terms defined in NRS 449.436 to 449.439, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 449.441 is hereby amended to read as follows:~~

~~449.441 The provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act do not apply to a person who is licensed to practice medicine pursuant to chapter 630 of NRS or to an office of a physician or a facility that provides health care, other than a medical facility, if the person or the office of a physician or the facility only administers a medication to a patient to relieve the patient's anxiety or pain and if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.] (Deleted by amendment.)~~

Sec. 15. ~~[NRS 449.447 is hereby amended to read as follows:~~

~~449.447 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.448, may take any of the following actions:~~

- ~~(a) Decline to issue or renew a permit;~~
- ~~(b) Suspend or revoke a permit; or~~
- ~~(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum.~~

~~2. The Health Division may review a report submitted pursuant to NRS [630.30665 or] 633.524 or section 12 of this act to determine whether an office of a physician or a facility is in violation of the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.~~

~~3. If a surgical center for ambulatory patients violates the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Health Division may impose administrative sanctions pursuant to NRS 449.163.] (Deleted by amendment.)~~

Sec. 16. ~~[NRS 449.448 is hereby amended to read as follows:~~

~~449.448 1. The Board shall adopt regulations to carry out the provisions of NRS 449.435 to 449.448, inclusive, and section 12 of this act, including, without limitation, regulations which:~~

~~(a) Prescribe the amount of the fee required for applications for the issuance and renewal of a permit pursuant to NRS 449.443 and 449.444.~~

~~(b) Prescribe the procedures and standards for the issuance and renewal of a permit.~~

~~(c) Identify the nationally recognized organizations approved by the Board for the purposes of the accreditation required for the issuance of a:~~

~~(1) License to operate a surgical center for ambulatory patients.~~

~~(2) Permit for an office of a physician or a facility that provides health care, other than a medical facility, to offer to a patient a service of general anesthesia, conscious sedation or deep sedation.~~

~~(d) Prescribe the procedures and scope of the inspections conducted by the Health Division pursuant to NRS 449.446.~~

~~(e) Prescribe the procedures and time frame for correcting each deficiency indicated in a report pursuant to NRS 449.446.~~

~~(f) Prescribe the criteria for the imposition of each sanction prescribed by NRS 449.447, including, without limitation:~~

~~(1) Setting forth the circumstances and manner in which a sanction applies;~~

~~(2) Minimizing the time between the identification of a violation and the imposition of a sanction; and~~

~~(3) Providing for the imposition of incrementally more severe sanctions for repeated or uncorrected violations.~~

~~2. The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit to offer to a patient a service of general anesthesia, conscious sedation or deep sedation and each holder of a license to operate a surgical center for ambulatory patients provide adequately for the protection of the health, safety and well-being of patients.]~~

(Deleted by amendment.)

Sec. 17. ~~[NRS 453.1545 is hereby amended to read as follows:~~

~~453.1545 1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:~~

~~(a) Be designed to provide information regarding:~~

~~(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state agencies to prevent the improper or illegal use of those controlled substances; [and]~~

~~(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient [.] ; and~~

~~(3) Data relating to the prescribing of controlled substances that is specific to a particular patient, access to which is restricted only to those persons authorized to access such information for the purposes set forth in subsections 4 and 5.~~

~~(b) Be administered by the Board, the Division, the Health Division of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Division.~~

~~(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.~~

~~(d) Include the contact information of each person who elects to access the database of the program pursuant to subsection 2, including, without limitation:~~

- ~~(1) The name of the person;~~
- ~~(2) The physical address of the person;~~
- ~~(3) The telephone number of the person; and~~
- ~~(4) If the person maintains an electronic mail address, the electronic mail address of the person.~~

~~2. The Board shall provide Internet access to the database of the program established pursuant to subsection 1 to each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV who:~~

- ~~(a) Elects to access the database of the program; and~~
- ~~(b) Completes the course of instruction described in subsection [6.] 8.~~

~~3. A practitioner who is provided with Internet access pursuant to subsection 2 must, for the purposes of complying with the provisions of subsection 5, be provided access to information specific to the prescriptions written by the practitioner, including, without limitation, the name of each patient for whom the practitioner has written a prescription and, for each such patient:~~

- ~~(a) The date on which the prescription was written by the practitioner;~~
- ~~(b) The name, dosage and amount of the controlled substance prescribed by the practitioner; and~~
- ~~(c) The number of refills authorized and filled for the controlled substance prescribed by the practitioner.~~

~~4. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.~~

~~[4.] 5. The Board and the Division shall access the program established pursuant to subsection 1 to monitor the prescription activity of practitioners authorized to write prescriptions for controlled substances listed in schedule II, III or IV, and to tabulate and compare the number of prescriptions written monthly by each practitioner in a particular medical specialty or other category established by the Board for this purpose. When the number of prescriptions written in a month by any practitioner exceeds the monthly~~

~~average of 95 percent of the other practitioners in that specialty or category, the Board shall notify the practitioner in writing and via electronic mail, if available. Within 10 days after receiving notice from the Board, the practitioner shall:~~

~~(a) Review the information described in subsection 3 to determine the accuracy of the information; and~~

~~(b) Submit written notice to the Board, on a form approved by the Board, of the accuracy of the information or identifying any inaccuracies in the information.~~

~~6. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.~~

~~[5.] 7. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section and NRS 239.0115, must not be disclosed to any person. That information must be disclosed:~~

~~(a) Upon the request of a person about whom the information requested concerns or upon the request on behalf of that person by his or her attorney; or~~

~~(b) Upon the lawful order of a court of competent jurisdiction.~~

~~[6.] 8. The Board and the Division shall cooperatively develop a course of training for persons who elect to access the database of the program pursuant to subsection 2 and require each such person to complete the course of training before the person is provided with Internet access to the database pursuant to subsection 2.~~

~~[7.] 9. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section. (Deleted by amendment.)~~

Sec. 18. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any osteopathic physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.

2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any osteopathic physician contributed to the death of the decedent.

3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.

Sec. 19. NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and ~~4~~ 6 of NRS 633.533 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

Sec. 20. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit ~~(annually)~~ to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report ~~(annually)~~ to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the reports required pursuant to subsections 1 and 2 ~~(whether)~~ :

(a) At the time the holder of the license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. **In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice osteopathic medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within**

14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 ~~and 2~~, **2 and 4**;

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection ~~5~~ **6**.

~~5~~ **6.** Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, ~~or 2~~ **or 4** is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~6~~ **7.** The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~7~~ **8.** In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

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

(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.

(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.

(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.

(d) "Health Division" has the meaning ascribed to it in NRS 449.009.

(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 21. NRS 633.533 is hereby amended to read as follows:

633.533 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against an osteopathic physician **or physician assistant** on a form provided by the Board. The form may be

submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing osteopathic medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~{Any}~~ **Except as otherwise provided in subsection 4, any** hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~{an osteopathic physician's}~~ **the privileges of an osteopathic physician or physician assistant** to practice ~~{osteopathic medicine}~~ while the osteopathic physician **or physician assistant** is under investigation and the outcome of any disciplinary action taken by that facility or society against the osteopathic physician **or physician assistant** concerning the care of a patient or the competency of the osteopathic physician **or physician assistant** within 30 days after the change in privileges is made or disciplinary action is taken.

4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of an osteopathic physician or physician assistant that is based on:

(a) An investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant; or

(b) Suspected or alleged substance abuse in any form by the osteopathic physician or physician assistant.

5. The Board shall report any failure to comply with ~~{this}~~ subsection **3 or 4** by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~{4-}~~ **6.** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that an osteopathic physician or physician assistant:

- (a) Is a person with mental illness;
- (b) Is a person with mental incompetence;
- (c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

→ within 45 days after such a finding, judgment or determination is made.

~~15.1~~ 7. On or before January 15 of each year, the clerk of every court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding osteopathic physicians pursuant to paragraph (e) of subsection ~~14.1~~ 6.

~~{Sec. 18.}~~ Sec. 22. ~~{NRS 630.30665 is hereby repealed.}~~

TEXT OF REPEALED SECTION

~~630.30665—Physician required to report certain information concerning surgeries; effect of failure to report; duties of Board; confidentiality of report; applicability.~~

~~1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:~~

~~(a) At a medical facility as that term is defined in NRS 449.0151; or~~

~~(b) Outside of this State.~~

~~2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.~~

~~3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.~~

~~4. The Board shall:~~

~~(a) Collect and maintain reports received pursuant to subsections 1 and~~

~~2;~~

~~(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and~~

~~(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.~~

~~5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~

~~7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~8. As used in this section:~~

~~(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.~~

~~(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.~~

~~(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.~~

~~(d) "Health Division" has the meaning ascribed to it in NRS 449.009.~~

~~(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.]~~

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 269 to Senate Bill No. 168 limits the manner in which a physician may offer a patient a service of general anesthesia, conscious sedation or deep sedation.

It also requires practitioners to submit a report to the licensing board regarding any sentinel event involving certain types of sedation within 14 days of the occurrence and when the licensee biennially renews their license.

It deletes a provision increasing the fee for certain special licenses. It also deletes the sections requiring reporting to the Health Division regarding surgeries involving sedation or sentinel events.

Finally, the amendment requires a hospital, clinic, medical facility or society, to report to the Osteopathic Board within five days any change in privileges of an osteopathic physician or

physician assistant, based on an investigation of mental, medical or psychological competence or suspected or alleged substance abuse.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 212.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 294.

"SUMMARY—Revises provisions governing charter schools. (BDR 34-900)"

"AN ACT relating to education; revising provisions relating to sponsorship of charter schools; creating the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority;** prescribing the membership, duties and powers of the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority;** repealing the Subcommittee on Charter Schools of the State Board of Education; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the formation of charter schools and authorizes school districts, the State Board of Education and colleges and universities within the Nevada System of Higher Education to sponsor charter schools. (NRS 386.500-386.610) **Sections 25-35.5** of this bill create the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority** and prescribe the membership of the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority.** **Section 38** of this bill removes the authority of the State Board of Education to sponsor charter schools and authorizes the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority** to sponsor charter schools. **Sections 43 and 49** of this bill authorize the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority** to adopt certain regulations relating to charter schools and eliminate the authority of the Department of Education and the State Board of Education to adopt certain regulations relating to charter schools. **Section 2** of this bill transfers the duty to prepare an annual report of accountability information of ~~{all the}~~ **each** charter ~~{schools}~~ **school** in this State from the board of trustees of a school district to the ~~{State Board of Charter Schools;}~~ **sponsor of that charter school.** **Sections 59 and 60** of this bill require the Director of the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority** and other persons employed by the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority** to be appointed or hired, as appropriate. **Section 61** of this bill requires the members of the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority** to be appointed. **Section 64** of this bill transfers the sponsorship of all charter schools sponsored by the State Board of Education to the State ~~{Board of Charter Schools;}~~ **Public Charter School Authority.**

Section 57 of this bill repeals the Subcommittee on Charter Schools of the State Board of Education.

WHEREAS, The Legislature recognizes that each child in this State should be afforded the opportunity to receive a high-quality education from the public schools of this State; and

WHEREAS, Some children perform better in different learning environments, and the educational programs in public schools should be designed to fit the individual needs of those children; and

WHEREAS, It is the intent of the Legislature to provide teachers and other educational personnel, parents, legal guardians and other persons who are interested in the system of public education in this State the opportunity to:

1. Improve the learning of pupils by creating public schools with rigorous standards for the academic achievement of pupils;

2. Close the achievement gaps between high-performing and low-performing groups of pupils;

3. Increase the opportunities for learning for all pupils;

4. Increase access to alternative educational programs for pupils who are identified as being at risk for academic failure; and

5. Encourage diverse approaches to public education and the use of innovative teaching methods that have proven effective; and

WHEREAS, The Legislature finds that the success of charter schools in this State depends upon the support of high-quality sponsors, effective charter associations and resource centers, effective educational personnel and parents and legal guardians of pupils enrolled in the charter schools; and

WHEREAS, The Legislature finds that the sponsors of successful charter schools maintain high standards for the sponsor and the charter schools they sponsor, preserve autonomy for the charter schools they sponsor and protect the interests of the pupils enrolled in the charter schools and the communities they serve; and

WHEREAS, The Legislature finds that the creation of a State Public Charter School Authority can serve as a model of the best practices in sponsoring charter schools and can foster high-quality public school choice through the charter schools it sponsors by providing pupils with an opportunity to maximize their academic potential; now, therefore,

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

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

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

respective districts. These rights and powers may only be limited by other specific provisions of law.

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

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

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

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district , including, without limitation, pupils enrolled in charter schools [in] **sponsored by** the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school [that is located within the school district, regardless of the sponsor of the charter school.] **sponsored by the school district.** The information for charter schools must be reported separately . [and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]

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

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

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

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

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

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

(10) Information on whether each school in the district , including, without limitation, each charter school ~~fin~~ sponsored by the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

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

prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

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

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

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

(5) For each elementary school:

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

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

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

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

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

(2) The curriculum used by each charter school ~~that~~ sponsored by the district.

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

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

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

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

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

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

(3) Withdraw from school to attend another school.

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

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

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

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

(k) Records of incidents involving weapons or violence for each school in the district ~~and~~ including, without limitation, each charter school ~~fin~~ sponsored by the district,

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district ~~and~~ including, without limitation, each charter school ~~fin~~ sponsored by the district,

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

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

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

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

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

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

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

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

(s) For each high school in the district, including, without limitation, each charter school ~~fin~~ sponsored by the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or

mathematics at a university, state college or community college within the Nevada System of Higher Education.

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

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

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. *The State ~~Board of Charter Schools~~ Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before August 15 of each year, prepare an annual report of accountability of the charter schools ~~fin this State~~ sponsored by the State Public Charter School Authority or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department , in consultation with the State Public Charter School*

Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State ~~[Board of Charter Schools]~~ Public Charter School Authority and institution, as applicable, which must include, without limitation, the information contained in paragraphs (a) to (ee), inclusive, of subsection 2, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the Department.

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

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

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

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

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

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

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

(a) Prescribe forms for the reports required pursuant to ~~[subsection 2]~~ ***subsections 2 and 3*** and provide the forms to the respective school districts ~~[.] and the State ~~[Board of Charter Schools]~~ Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school.~~

(b) Provide statistical information and technical assistance to the school districts ~~[.] and the State ~~[Board of Charter Schools]~~ Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school~~ to ensure that the reports provide comparable information with respect to each school in each district, ***each charter school*** and among the districts ***and charter schools*** throughout this State.

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;

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

(6) Legislative Counsel Bureau ~~;~~ and

(7) Charter School Association of Nevada,

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

~~{6-}~~ 7. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

~~{7-}~~ 8. On or before August 15 of each year ~~{, the}~~ :

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

~~{8-}~~ (b) *The State ~~{Board of Charter Schools}~~ Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in ~~each~~ the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.*

9. On or before August 15 of each year ~~{, the}~~ :

(a) *The* board of trustees of each school district, ~~{, and}~~ *the State ~~{Board of Charter Schools}~~ Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall ~~{,~~*

~~{a-}~~ ~~Provide~~ provide written notice that the report required pursuant to subsection 2 *or 3, as applicable*, is available on the Internet website maintained by the school district, ~~{, for the}~~ *State ~~{Board of Charter Schools}~~ Public Charter School Authority or institution, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:*

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

(b) ~~{Provide}~~ *The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 *or 3, as applicable*, in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, ~~{, for}~~ *the State ~~{Board of Charter~~**

~~Schools,]~~ **Public Charter School Authority or the institution,** if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school [in] sponsored by the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district ~~]~~, including, without limitation, each charter school [in] sponsored by the district.

~~[9.] If the State [Board of Charter Schools]~~ **Public Charter School Authority or the institution does not maintain a website, the State [Board of Charter Schools] Public Charter School Authority or the institution, as applicable, shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school [in this State] it sponsors and the parents and guardians of pupils enrolled in each charter school [it sponsors.**

10. Upon the request of the Governor, an entity described in paragraph (a) of subsection ~~[8]~~ 9 or a member of the general public, the board of trustees of a school district, ~~for] the State [Board of Charter Schools]~~ **Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable,** shall provide a portion or portions of the report required pursuant to subsection 2 ~~]~~

~~10.] or 3, as applicable.~~

11. As used in this section:

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

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

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

385.349 1. The board of trustees of each school district, ~~and] the State [Board of Charter Schools]~~ **Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school** shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

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

(b) **If prepared by the State [Board of Charter Schools] Public Charter School Authority or a college or university within the Nevada System of Higher Education, the information set forth in subsection 1 of NRS 385.34692, reported for the charter schools [in this State as a whole and for each charter school,] sponsored by the State Public Charter School Authority or the institution, as applicable.**

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

~~{(e)}~~ (d) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

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

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

3. The Department shall, in consultation with the Bureau, ~~{and}~~ the school districts, ~~{and}~~ ~~the State Board of Charter Schools,~~ **Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school,** prescribe a form that contains the basic information required by subsection 1. The board of trustees of a school district, ~~{or}~~ ~~the State Board of Charter Schools,~~ **Public Charter School Authority or a college or university** may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district, ~~{and}~~ ~~the State Board of Charter Schools,~~ **Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school** shall:

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

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

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

(b) Provide for the public dissemination of the summary **of the school district,** ~~{or}~~ ~~the State Board of Charter Schools,~~ **Public Charter School Authority or the college or university, as applicable,** by posting a copy of the summary on the Internet website maintained by the school district, ~~{or}~~ ~~the State Board of Charter Schools,~~ **Public Charter School Authority or institution,** if any. If a school district, ~~{or}~~ ~~the State Board of Charter Schools,~~ **Public Charter School Authority or an institution** does not maintain a website, the district, ~~{or}~~ ~~the State Board of Charter Schools,~~ **Public Charter School Authority or institution, as applicable,** shall otherwise provide for public dissemination of the summary. The board of trustees of each school district, ~~{and}~~ ~~the State Board of Charter Schools,~~ **Public Charter School Authority or an institution** shall ensure that the parents and guardians of pupils enrolled in the school district **or each charter school, as applicable,** have sufficient information concerning the availability

of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district, ~~for the State Board of Charter Schools,~~ **Public Charter School Authority or the institution,** if any. Upon the request of a parent or legal guardian, the school district, ~~for the State Board of Charter Schools,~~ **Public Charter School Authority or an institution, as applicable,** shall provide the parent or legal guardian with a written copy of the summary.

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

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

385.357 1. Except as otherwise provided in NRS 385.37603 and 385.37607, the principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

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

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

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

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

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

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

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

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

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

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

(I) The curriculum appropriate to improve achievement;

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

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

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

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that

statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.

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

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

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

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

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

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

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.36127. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.

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

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

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

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of

20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

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

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

- (a) Superintendent of Public Instruction;
- (b) Governor;
- (c) State Board;
- (d) Department;
- (e) Committee;
- (f) Bureau; and

(g) Board of trustees of the school district in which the school is located ~~or, if the school is a charter school, the sponsor of the charter school~~ and the governing body of the charter school.

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

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

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

- (a) The information set forth in subsection 1 of NRS 385.34692, reported only for the school;
- (b) Information on the involvement of parents and legal guardians in the education of their children; and
- (c) Such other information as is directed by the Superintendent of Public Instruction in consultation with the Bureau.

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

3. The Department shall, in consultation with the Bureau , ~~{and}~~ the school districts, ~~{and} the State {Board of Charter Schools,}~~ **Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school,** prescribe a form that contains the basic information required by subsection 1. The principal of a school may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year:

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

(1) Department;

(2) Bureau; and

(3) Board of trustees of the school district in which the school is located ~~{}~~ **or, if the school is a charter school, to the sponsor of the charter school and the governing body of the charter school.**

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

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

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

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

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

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218E.615, the:

(1) Annual report of accountability prepared by:

(I) The State Board pursuant to NRS 385.3469; ~~{and}~~

(II) The board of trustees of each school district pursuant to subsection 2 of NRS 385.347 ~~{}~~ ; and

(III) **The State ~~{Board of Charter Schools,}~~ Public Charter School Authority and each college or university within the Nevada System of**

Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347.

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

(I) The State Board pursuant to NRS 385.34691;

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

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any, or if such a plan has not been prepared, the turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.

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

(c) Submit a written report to and consult with each school district, ~~and the State Board of Charter Schools~~ **Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable,** regarding any methods by which the district, ~~for the State Board of Charter Schools~~ **Public Charter School Authority or the institution** may improve the accuracy of the report required pursuant to subsection 2 **or 3** of NRS 385.347, **as applicable,** and the plan to improve the achievement of pupils required pursuant to NRS 385.348, and the purposes for which the report and plan to improve are used.

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

(1) Plan to improve the achievement of pupils required pursuant to NRS 385.357;

(2) Turnaround plan for the school implemented pursuant to NRS 385.37603; or

(3) Plan for restructuring the school implemented pursuant to NRS 385.37607,

➤ whichever is applicable for the school.

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

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

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

designated as demonstrating need for improvement pursuant to NRS 385.3623; and

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

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

Sec. 7. NRS 385.36127 is hereby amended to read as follows:

385.36127 1. If a school support team is established pursuant to the regulations adopted by the State Board pursuant to NRS 385.361, the support team shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

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

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(f) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(g) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school, the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school. For a charter school sponsored by the State ~~{Board}~~ ~~{,}~~ ~~{of Charter Schools,}~~ Public Charter School Authority, the support team shall make the recommendations to the State ~~{Board of Charter Schools,}~~ Public Charter School Authority and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor ~~{, the State Board}~~ and the Department.

(h) In accordance with its findings pursuant to this section and NRS 385.36129, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357, or submit, on or before May 1, written

recommendations for revisions to the turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is applicable for the school. The written revisions or recommendations, as applicable, must:

(1) Comply with NRS 385.357 if the school has demonstrated need for improvement for less than 5 years or with NRS 385.37603 or 385.37607, as applicable, if the school has demonstrated need for improvement for 5 or more consecutive years;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the name and duties of each person who is responsible for carrying out the revisions.

(i) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State ~~[Board]~~ ~~[the Department]~~ ~~[of Charter Schools, the State Board of Charter Schools]~~ **Public Charter School Authority, the State Public Charter School Authority** shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, ~~that~~ **the institution that sponsors the charter school** shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(k) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

Sec. 8. NRS 385.36129 is hereby amended to read as follows:

385.36129 1. In addition to the duties prescribed in NRS 385.36127, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the most recent plan to improve the achievement of the school's pupils, the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school, including, without limitation, an evaluation of:

(1) The appropriateness of the plan for the school; and

(2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The written revisions to the plan to improve the achievement of the school's pupils or written recommendations for revisions to the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school, submitted by the support team pursuant to NRS 385.36127;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state and the school district in which the school is located, including, without limitation:

(1) The name of the program;

(2) The date on which the program was purchased and the date on which the program was carried out by the school;

(3) The percentage of personnel at the school who were trained regarding the use of the program;

(4) The satisfaction of the personnel at the school with the program; and

(5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

(1) The financial resources of the school;

(2) The administrative and educational personnel of the school;

(3) The curriculum of the school;

(4) The facilities available at the school, including the availability and accessibility of educational technology; and

(5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; ~~and~~

(7) ~~[-A-]~~ *Except as otherwise provided in subparagraph (8), a description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (k) to (n), inclusive, of subsection 2 of NRS 385.347 [-] ; and*

(8) For a charter school, a description of the disciplinary problems of the pupils enrolled in the charter school as reported in the annual report of accountability prepared by the State ~~[Board of Charter Schools]~~ Public Charter School Authority or the college or university within the Nevada System of Higher Education that sponsors the charter school, as applicable, pursuant to subsection 3 of NRS 385.347.

2. On or before November 1, the support team *of a school other than a charter school* shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Board of trustees of the school district in which the school is located;

(c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

➡ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

3. *On or before November 1, the support team for a charter school shall submit a copy of the final written report to the:*

(a) Principal of the charter school;

(b) Sponsor of the charter school;

(c) Governing body of the charter school;

(d) Department; and

~~[-(d)-]~~ *(e) Bureau.*

➡ *The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the charter school.*

Sec. 9. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

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

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

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

(b) To the State ~~Board of Charter Schools~~ **Public Charter School Authority** the determination made for each charter school that is sponsored by the State ~~Board~~ ~~of Charter Schools~~ **Public Charter School Authority**.

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

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

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

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

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

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

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

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

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

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

8. As used in this section:

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

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

Sec. 10. NRS 385.362 is hereby amended to read as follows:

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

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

(b) ~~For a charter school sponsored by the State Board of Charter Schools,~~ **Public Charter School Authority, the State Board of Charter Schools,** **Public Charter School Authority shall ensure, in conjunction with the governing body of the charter school, that the charter school receives**

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

(c) For a charter school sponsored by ~~{the State Board or by}~~ a college or university within the Nevada System of Higher Education, the Department shall ensure, in conjunction with the governing body of the charter school, that the *charter* school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

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

Sec. 11. NRS 385.366 is hereby amended to read as follows:

385.366 1. Based upon the information received from the Department pursuant to NRS 385.3613, the board of trustees of each school district shall, on or before July 1 of each year, issue a preliminary designation for each public school in the school district in accordance with the criteria set forth in NRS 385.3623, excluding charter schools sponsored by the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** or by a college or university within the Nevada System of Higher Education. The board of trustees shall make preliminary designations for all charter schools that are sponsored by the board of trustees. The Department shall make preliminary designations for all charter schools that are sponsored by the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** and all charter schools sponsored by a college or university within the Nevada System of Higher Education. The initial designation of a school as demonstrating need for improvement must be based upon 2 consecutive years of data and information for that school.

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. § 6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** or by a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the designation for the school on August 1.

3. On or before August 1 of each year, the Department shall provide written notice of the determinations made pursuant to NRS 385.3613 and the final designations made pursuant to this section as follows:

(a) The determinations and final designations made for all schools in this State to the:

- (1) Governor;
 - (2) State Board;
 - (3) Committee; and
 - (4) Bureau.
- (b) The determinations and final designations made for all schools within a school district to the:
- (1) Superintendent of schools of the school district; and
 - (2) Board of trustees of the school district.
- (c) The determination and final designation made for each school to the principal of the school.

(d) The determination and final designation made for each charter school ~~[sponsored by the State Board of Charter Schools to the State Board of Charter Schools.] to the sponsor of the charter school.~~

Sec. 12. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721, 385.3745, 385.3746, 385.37603 or 385.37607 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721, 385.3745, 385.3746, 385.37603 or 385.37607 do not apply:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

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

(c) For a charter school sponsored by the State ~~[Board of Charter Schools, the State Board of Charter Schools.] Public Charter School Authority, the State Public Charter School Authority shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C § 6316(b)(4) and the regulations adopted pursuant thereto.~~

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

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

3. In addition to the requirements of subsection 1 or 2, as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721, 385.3745, 385.3746, 385.37603 or 385.37607 do not apply:

(a) Except as otherwise provided in ~~{paragraph (b),}~~ **paragraphs (b) and (c)**, the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) ~~For a charter school sponsored by the State {Board of Charter Schools, the State Board of Charter Schools}~~ **Public Charter School Authority, the State Public Charter School Authority shall work cooperatively with the board of trustees of the school district in which the {charter school is located} pupil resides to provide school choice to the {parents and guardians of pupils} parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.**

(c) For a charter school sponsored by ~~{the State Board or by}~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the ~~{charter school is located}~~ **pupil resides** to provide school choice to the ~~{parents and guardians of pupils}~~ **parent or guardian of each pupil** enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 13. NRS 385.3693 is hereby amended to read as follows:

385.3693 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance

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

(c) *For a charter school sponsored by the State ~~[Board of Charter Schools, the State Board of Charter Schools]~~ Public Charter School Authority, the State Public Charter School Authority shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.*

(d) For a charter school sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 14. NRS 385.372 is hereby amended to read as follows:

385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) *Sponsored by the State ~~[Board of Charter Schools, the State Board of Charter Schools]~~ Public Charter School Authority, the State Public Charter School Authority shall work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ pupil resides to provide school choice to the ~~[parents and guardians of pupils]~~ parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.*

(3) Sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ pupil resides to provide school choice to the

~~{parents and guardians of pupils}~~ **parent or guardian of each pupil** enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

~~{(3)}~~ **(4)** Except as otherwise provided in subsection 3, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of supplemental educational services for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of supplemental educational services for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the charter school as if the delay never occurred.

Sec. 15. NRS 385.3721 is hereby amended to read as follows:

385.3721 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

(b) The Department shall require the board of trustees of the school district to conduct a comprehensive audit of the school which must include an audit of the curriculum, including, without limitation, methods of instruction and assessments, implemented by the school.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

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

(c) *For a charter school sponsored by the State ~~{Board of Charter Schools, the State Board of Charter Schools}~~ **Public Charter School Authority, the State Public Charter School Authority shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~{the State Board or by}~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~{(d)}~~ (e) The Department shall require the governing body of the charter school to conduct a comprehensive audit of the charter school which must include an audit of the curriculum, including, without limitation, methods of instruction and assessments, implemented by the charter school.

Sec. 16. NRS 385.3743 is hereby amended to read as follows:

385.3743 1. In addition to the requirements of NRS 385.3721, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the State ~~{Board of Charter Schools, the State Board of Charter Schools}~~ **Public Charter School Authority, the State Public Charter School Authority shall:*****

(I) Work cooperatively with the board of trustees of the school district in which the ~~{charter school is located}~~ pupil resides to provide school choice to the ~~{parents and guardians of pupils}~~ parent or guardian

of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the ~~charter school is located~~ pupil resides to provide school choice to the ~~parents and guardians of pupils~~ parent or guardian of each pupil enrolled in the *charter* school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

~~{(3)}~~ (4) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of corrective action for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

Sec. 17. NRS 385.3744 is hereby amended to read as follows:

385.3744 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, *the State ~~[Board of Charter Schools]~~ **Public Charter School Authority** may, for a charter school sponsored by the State ~~[Board of Charter Schools]~~ **Public Charter School Authority**,* the Department may, for a charter school sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take one or more of the following corrective actions for the school:

(a) Significantly decrease the managerial authority of the employees at the school.

(b) Extend the school year or the school day.

2. The ~~State Board of Charter Schools,~~ **Public Charter School Authority,** the Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, ~~the State Board of Charter Schools,~~ **Public Charter School Authority,** the Department or the board of trustees, as applicable, may proceed with corrective action as if the delay never occurred.

Sec. 18. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 consecutive years:

(a) The board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph (b).

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

(b) The State Board shall prescribe by regulation:

(1) The requirements for a turnaround plan which must include, without limitation:

(I) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(II) Measurable goals and objectives for obtaining adequate yearly progress;

(III) Specified steps or actions for obtaining adequate yearly progress; and

(IV) A timeline for the completion of the turnaround plan, which must provide for implementation of the plan in accordance with NRS 385.37603 if the school is designated as needing improvement for 5 years; and

(2) The actions the Department may take to monitor the development of the turnaround plan developed pursuant to this section and the implementation of any corrective action at the school.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school:

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph ~~[(d).]~~ (e).

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

(c) *For a charter school sponsored by the State ~~Board of Charter Schools, the State Board of Charter Schools]~~ **Public Charter School Authority, the State Public Charter School Authority** shall, in conjunction with the governing body of the charter school:*

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the charter school which meets the requirements prescribed by the State Board pursuant to paragraph (e);

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

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

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph ~~[(d).]~~ (e).

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

~~[(d)]~~ (e) The State Board shall prescribe by regulation:

(1) The requirements for a turnaround plan which must include, without limitation:

(I) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(II) Measurable goals and objectives for obtaining adequate yearly progress;

(III) Specified steps or actions for obtaining adequate yearly progress; and

(IV) A timeline for the completion of the turnaround plan, which must provide for implementation of the plan in accordance with

NRS 385.37603 if the school is designated as needing improvement for 5 years; and

(2) The actions the Department may take to monitor the implementation of the turnaround plan developed pursuant to this section and the implementation of any corrective action at the charter school.

3. If a public school is granted a delay from the development of a turnaround plan pursuant to subsection 2 of NRS 385.376 and the school fails to make adequate yearly progress during the period of the delay, a turnaround plan must be immediately developed and implemented for the school in accordance with this section as if the delay never occurred.

4. On or before June 30, a turnaround plan developed for a school must be submitted to the:

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau;

(d) Board of trustees of the school district in which the school is located ~~†~~ **or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school;** and

(e) Principal of the school.

Sec. 19. NRS 385.3746 is hereby amended to read as follows:

385.3746 1. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of the pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;

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

(3) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(4) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(5) Except as otherwise provided in subsection 3, develop a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) The governing body of the charter school shall provide notice of the designation to the parents and guardians of the pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382. If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) In conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;

(II) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(III) Except as otherwise provided in subsection 4, develop a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the State ~~[Board of Charter Schools, the State Board of Charter Schools]~~ Public Charter School Authority, the State Public Charter School Authority shall:***

(I) In conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;

(II) Work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ pupil resides to provide school choice to the ~~[parents and guardians of pupils]~~ parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(III) Except as otherwise provided in subsection 4, develop a plan for restructuring the charter school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) In conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;

(II) Work cooperatively with the board of trustees of the school district in which the ~~[charter school is located]~~ pupil resides to provide school choice to the ~~[parents and guardians of pupils]~~ parent or guardian of each pupil enrolled in the **charter** school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(III) Except as otherwise provided in subsection 4, develop a plan for restructuring the **charter** school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

~~{(3)}~~ ***(4) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.***

2. A plan for restructuring the school developed pursuant to this section must include, without limitation:

(a) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(b) Measurable goals and objectives for obtaining adequate yearly progress;

(c) Specified steps or actions for obtaining adequate yearly progress; and

(d) A timeline for the completion of the plan for restructuring the school, which must provide for implementation of the plan in accordance with NRS 385.37607 if the school is designated as needing improvement for 5 years.

3. The board of trustees of a school district shall grant a delay from the development of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall immediately develop and proceed with the implementation of the plan for restructuring the school as if the delay never occurred.

4. The sponsor of a charter school shall grant a delay from the development of a plan for restructuring for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, a plan for restructuring must be immediately developed for the school in accordance with this section and the Department shall proceed with the implementation of the plan for restructuring the charter school as if the delay never occurred.

5. On or before June 30, a plan for restructuring developed pursuant to this section must be submitted to the:

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau;

(d) Board of trustees of the school district in which the school is located ~~or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school;~~ and

(e) Principal of the school.

Sec. 20. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 consecutive years for failure to make adequate yearly progress, ~~the State [Board of Charter Schools]~~ **Public Charter School Authority may, for a charter school sponsored by the State [Board of Charter Schools],** ~~the~~ **Public Charter School Authority,** the Department may, for a charter school sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with differentiated correction actions,

consequences or sanctions, or any combination thereof, as prescribed by the State Board pursuant to NRS 385.361.

2. The ~~State Board of Charter Schools,~~ Public Charter School Authority, the Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions, or any combination thereof, pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, ~~the State Board of Charter Schools,~~ Public Charter School Authority, the Department or the board of trustees, as applicable, may proceed with corrective action, consequences or sanctions, or any combination thereof, for the school, as appropriate, pursuant to the provisions of NRS 385.37603 and 385.37605 as if the delay never occurred.

3. Before the board of trustees, ~~the State Board of Charter Schools,~~ Public Charter School Authority or the Department proceeds with consequences or sanctions, the board of trustees, ~~the State Board of Charter Schools,~~ Public Charter School Authority or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees, ~~the State Board of Charter Schools,~~ Public Charter School Authority or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 21. NRS 385.37603 is hereby amended to read as follows:

385.37603 1. If a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) The board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 3 of NRS 385.37605, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745;

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

(b) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school.

2. If a charter school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) The governing body of the charter school shall:

(1) Except as otherwise provided in subsection 3 of NRS 385.37605, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745.

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on a form prescribed by the Department pursuant to NRS 385.382.

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

(c) *For a charter school sponsored by the State ~~{Board of Charter Schools, the State Board of Charter Schools}~~ Public Charter School Authority, the State Public Charter School Authority shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.*

(d) For a charter school sponsored by ~~{the State Board or by}~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~{(d)}~~ (e) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the charter school.

Sec. 22. NRS 385.37605 is hereby amended to read as follows:

385.37605 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) *The State ~~{Board of Charter Schools}~~ Public Charter School Authority may, for a charter school sponsored by the State ~~{Board of Charter Schools}~~ Public Charter School Authority, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.*

(b) The Department may, for a charter school sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

~~{(b)}~~ (c) The board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

2. The Department shall monitor the implementation of the turnaround plan for the school developed pursuant to NRS 385.3745.

3. The *State ~~{Board of Charter Schools,}~~ Public Charter School Authority,* the Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions pursuant to this section for a school, including, without limitation, the development and implementation of a turnaround plan, for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the *State ~~{Board of Charter Schools,}~~ Public Charter School Authority,* the Department or the board of trustees, as applicable, may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

4. Before the board of trustees, *the State ~~{Board of Charter Schools,}~~ Public Charter School Authority* or the Department proceeds with consequences or sanctions, the board of trustees, *the State ~~{Board of Charter Schools,}~~ Public Charter School Authority* or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees, *the State ~~{Board of Charter Schools,}~~ Public Charter School Authority* or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 23. NRS 385.37607 is hereby amended to read as follows:

385.37607 1. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 2, repeal the plan to improve the academic achievement of pupils developed pursuant to

NRS 385.357 and, not later than September 30, implement the plan for restructuring the school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;

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

(4) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(5) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

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

(IV) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) **Sponsored by the State ~~Board of Charter Schools, the State Board of Charter Schools~~ Public Charter School Authority, the State Public Charter School Authority shall:**

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

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

(IV) Work cooperatively with the board of trustees of the school district in which the ~~charter school is located~~ pupil resides to provide school choice to the ~~parents and guardians of pupils~~ parent or guardian of each pupil enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~the State Board or by~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

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

(IV) Work cooperatively with the board of trustees of the school district in which the ~~charter school is located~~ pupil resides to provide school choice to the ~~parents and guardians of pupils~~ parent or guardian of each pupil enrolled in the *charter* school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

~~[(3)]~~ (4) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(c) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school or charter school.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of delay, the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district, ~~the State [Board of Charter Schools]~~ **Public Charter School Authority** or the Department proceeds with a plan for restructuring, the board of trustees, ~~the State [Board of Charter Schools]~~ **Public Charter School Authority** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees, ~~the State [Board of Charter Schools]~~ **Public Charter School Authority** or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 24. NRS 385.620 is hereby amended to read as follows:

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347 ~~};~~ **and similar information in the annual report of accountability prepared by the State [Board of Charter Schools] Public Charter School Authority and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;**

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 25. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to ~~35.4~~ **35.5**, inclusive, of this act.

Sec. 26. *As used in NRS 386.500 to 386.610, inclusive, and sections 26 to ~~35.4~~ 35.5, inclusive, of this act, the words and terms defined in NRS 386.500 and sections 27 and 28 of this act have the meanings ascribed to them in those sections.*

Sec. 27. *"Director" means the Director of the State ~~Board of Charter Schools~~ Public Charter School Authority appointed pursuant to section 31 of this act.*

Sec. 28. *"State ~~Board of Charter Schools~~" Public Charter School Authority" means the State ~~Board of Charter Schools~~ Public Charter School Authority created by section ~~29~~ **28.5** of this act.*

Sec. 28.5. *The State Public Charter School Authority is hereby created. The purpose of the State Public Charter School Authority is to:*

1. Authorize charter schools of high-quality throughout this State with the goal of expanding the opportunities for pupils in this State, including, without limitation, pupils who are at risk.

2. Provide oversight to the charter schools that it sponsors to ensure that those charter schools maintain high educational and operational standards, preserve autonomy and safeguard the interests of pupils and the community.

3. Serve as a model of the best practices in sponsoring charter schools and foster a climate in this State in which all charter schools, regardless of sponsor, can flourish.

Sec. 29. *1. The State ~~Board of Charter Schools, consisting~~ Public Charter School Authority consists of seven members. ~~[, is hereby created.]~~ The membership of the State ~~Board of Charter Schools~~ Public Charter School Authority consists of:*

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by an association of charter schools pursuant to subsection 3.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the State ~~{Board of Charter Schools}~~ Public Charter School Authority:

(a) Includes persons with a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State;

(b) Includes a parent or legal guardian of a pupil enrolled in a charter school in this State;

(c) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance ~~and~~ or accounting, or both;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

(6) The laws and regulations applicable to charter schools; and

~~{(b)}~~ (d) Insofar as practicable, reflects the ethnic and geographical diversity of this State.

3. The State ~~{Board of Charter Schools}~~ Public Charter School Authority shall establish a list of associations of charter schools ~~{that operate within this State}~~ operating in this State which the State Board recognizes as representing the charter schools in this State and designate the order in which such associations may appoint a member to the State ~~{Board of Charter Schools}~~ Public Charter School Authority. Except as otherwise provided in subsection 5, an association may not appoint more than one member to the State ~~{Board of Charter Schools}~~ Public Charter School Authority unless each association designated pursuant to this subsection has had an opportunity to make an appointment.

4. Each member of the State ~~{Board of Charter Schools}~~ Public Charter School Authority must be a resident of this State.

5. After the initial terms, the term of each member of the State ~~{Board of Charter Schools}~~ Public Charter School Authority is 3 years, commencing on July 1 of the year in which he or she is appointed. A vacancy in the membership of the State ~~{Board of Charter Schools}~~ Public Charter School Authority must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the State ~~{Board of Charter Schools}~~ Public Charter School Authority until his or her successor is appointed.

6. The members of the State ~~{Board of Charter Schools}~~ Public Charter School Authority shall select a Chair and Vice Chair from among its

members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

7. Each member of the State ~~[Board of Charter Schools]~~ Public Charter School Authority is entitled to receive:

(a) For each day or portion of a day during which he or she attends a meeting of the State ~~[Board of Charter Schools]~~ Public Charter School Authority a salary of not more than \$80, as fixed by the State ~~[Board of Charter Schools]~~ Public Charter School Authority; and

(b) For each day or portion of a day during which he or she attends a meeting of the State ~~[Board of Charter Schools]~~ Public Charter School Authority or is otherwise engaged in the business of the State ~~[Board of Charter Schools]~~ Public Charter School Authority the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 30. 1. The members of the State ~~[Board of Charter Schools]~~ Public Charter School Authority shall meet throughout the year at the times and places specified by a call of the Chair or a majority of the members.

2. Four members of the State ~~[Board of Charter Schools]~~ Public Charter School Authority constitute a quorum, and a quorum may exercise all the power and authority conferred on the State ~~[Board of Charter Schools]~~ Public Charter School Authority.

Sec. 31. 1. The State ~~[Board of Charter Schools]~~ Public Charter School Authority shall appoint a Director of the State ~~[Board of Charter Schools]~~ Public Charter School Authority for a term of 3 years. The State ~~[Board of Charter Schools may remove the Director from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.]~~ Public Charter School Authority shall ensure that the Director has a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.

2. A vacancy in the position of Director must be filled by the State ~~[Board of Charter Schools]~~ Public Charter School Authority for the remainder of the unexpired term.

3. The Director is in the unclassified service of the State.

Sec. 32. The Director shall not pursue any other business or occupation or hold any other office of profit without the approval of the State ~~[Board of Charter Schools]~~ Public Charter School Authority.

Sec. 33. The Director shall:

1. Execute, direct and supervise all administrative, technical and procedural activities of the State ~~[Board of Charter Schools]~~ Public Charter School Authority in accordance with the policies prescribed by the State ~~[Board of Charter Schools]~~ Public Charter School Authority;

2. Organize the State ~~[Board of Charter Schools]~~ Public Charter School Authority in a manner which will ~~[assure]~~ ensure the efficient operation and service of the State ~~[Board of Charter Schools;]~~ Public Charter School Authority;

3. Serve as the Executive Secretary of the State ~~[Board of Charter Schools;]~~ Public Charter School Authority; ~~[and]~~

4. Ensure that the autonomy provided to charter schools in this State pursuant to state law and regulations is preserved; and

5. Perform such other duties as are prescribed by law or the State ~~[Board of Charter Schools.]~~ Public Charter School Authority.

Sec. 34. The State ~~[Board of Charter Schools]~~ Public Charter School Authority may employ such persons as it deems necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~[35.]~~ 35.5, inclusive, of this act. The staff employed by the State Public Charter School Authority must be qualified to carry out the daily responsibilities of sponsoring charter schools in accordance with the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to 35.5, inclusive, of this act.

Sec. 35. 1. The Account for the State ~~[Board of Charter Schools]~~ Public Charter School Authority is hereby created in the State General Fund, to be administered by the Director.

2. The interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account may be used only for the establishment and maintenance of the State ~~[Board of Charter Schools.]~~ Public Charter School Authority.

4. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

5. The Director and the State Public Charter School Authority may accept gifts, grants and bequests to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~[35.]~~ 35.5, inclusive, of this act. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift, grant or bequest, or in accordance with this section.

Sec. 35.3. 1. The governing body of a charter school may contract with the sponsor of the charter school for the purchase of services, excluding those services which are covered by the sponsorship fee paid to the sponsor pursuant to NRS 386.570. If the governing body of a charter school elects to purchase such services, the governing body and the sponsor shall enter into an annual service agreement which is separate from the written charter of the charter school.

2. If a service agreement is entered into pursuant to this section, the sponsor of the charter school shall, not later than August 1 after the completion of the school year, provide to the governing body of the charter

school an itemized accounting of the actual costs of those services purchased by the charter school. Any difference between the amount paid by the charter school pursuant to the service agreement and the actual cost for those services must be reconciled and paid to the party to whom it is due. If the governing body or the sponsor disputes the amount due, the party making the dispute may request an independent review by the Department, whose determination is final.

3. The governing body of a charter school may not be required to enter into a service agreement pursuant to this section as a condition to approval of its written charter by the sponsor of the charter school or as a condition to renewal of the written charter.

Sec. 35.5. 1. The State Public Charter School Authority is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. A charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

2. If the charter school is eligible to receive special education program units, the Department shall pay the special education program units directly to the charter school.

3. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. § 7801(26)(A).

Sec. 36. NRS 386.500 is hereby amended to read as follows:

386.500 ~~{For the purposes of NRS 386.500 to 386.610, inclusive, a}~~ A pupil is "at risk" if the pupil has an economic or academic disadvantage such that he or she requires special services and assistance to enable him or her to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are limited English proficient, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 37. ~~{NRS 386.508 is hereby amended to read as follows:~~

~~386.508 There is hereby created a school district to be designated as the Charter School District for State [Board Sponsored] Board of Charter Schools Sponsored Charter Schools and Nevada System of Higher Education Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the State Board of Charter Schools or sponsored by a college or university within the Nevada System of Higher Education. The State Board of Charter Schools is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School~~

~~District for purposes of federal law governing charter schools.] (Deleted by amendment.)~~

Sec. 38. NRS 386.515 is hereby amended to read as follows:

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The State ~~[Board of Charter Schools]~~ **Public Charter School Authority** shall sponsor charter schools whose applications have been approved by the State ~~[Board of Charter Schools]~~ **Public Charter School Authority** pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the State ~~[Board of Charter Schools]~~ **Public Charter School Authority** sponsors a charter school, the State ~~[Board]~~ ~~[for the Department]~~ ~~[of Charter Schools]~~ **Public Charter School Authority** is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may sponsor charter schools.

4. Each sponsor of a charter school shall carry out the following duties and powers:

(a) Evaluating applications to form charter schools as prescribed by NRS 386.525;

(b) Approving applications to form charter schools that the sponsor determines are high quality, meet the identified educational needs of pupils and will serve to promote the diversity of public educational choices in this State;

(c) Declining to approve applications to form charter schools that do not satisfy the requirements of NRS 386.525;

(d) Negotiating and executing written charters pursuant to NRS 386.527;

(e) Monitoring, in accordance with NRS 386.500 to 386.610, inclusive, and sections 26 to 35.5, inclusive, of this act, and in accordance with the terms and conditions of the applicable written charter, the performance and compliance of each charter school sponsored by the entity; and

(f) Determining whether each written charter of a charter school that the entity sponsors merits renewal or whether the renewal of the written charter should be denied or the written charter should be revoked in accordance with NRS 386.530 or 386.535, as applicable.

5. Each sponsor of a charter school shall develop policies and practices that are consistent with state laws and regulations governing charter schools. In developing the policies and practices, the sponsor shall review and evaluate nationally recognized policies and practices for sponsoring

organizations of charter schools. The policies and practices must include, without limitation:

(a) The organizational capacity and infrastructure of the sponsor for sponsorship of charter schools, which must not be described as a limit on the number of charter schools the sponsor will approve;

(b) The procedure for evaluating charter school applications in accordance with NRS 386.525;

(c) A description of how the sponsor will maintain oversight of the charter schools it sponsors; and

(d) A description of the process of evaluation for charter schools it sponsors in accordance with NRS 386.610.

6. Evidence of material or persistent failure to carry out the powers and duties of a sponsor prescribed by this section constitutes grounds for revocation of the entity's authority to sponsor charter schools.

Sec. 39. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three teachers, as defined in subsection 4. In addition to the teachers who serve, the committee may consist of:

- (a) Members of the general public;
- (b) Representatives of nonprofit organizations and businesses; or
- (c) Representatives of a college or university within the Nevada System of Higher Education.

➤ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

2. ~~{Before a committee to form a charter school may submit an application to the board of trustees of a school district,} {the Subcommittee on Charter Schools,} {the State Board of Charter Schools or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The}~~ An application to form a charter school must include all information prescribed by the {Department} State {Board of Charter Schools} Public Charter School Authority by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive ~~{,}~~ , and sections 26 to ~~{35,}~~ 35.5, inclusive, of this act.

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the ~~{opportunities for pupils to learn;}~~ academic achievement of pupils;

(2) Encouraging the use of effective and innovative methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability and transparency of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

(p) A statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are eligible to attend the charter school pursuant to NRS 386.580 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

3. The *proposed sponsor of a charter school may request that the Department review an application before review by the proposed sponsor to determine whether the application is complete. Upon such a request, the* Department shall review an application to form a charter school to determine whether it is complete. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall deny the application. The Department shall provide written notice to the applicant *and the proposed sponsor of the charter school* of its ~~approval or denial of~~ *determination of whether the application ~~is~~ is complete.* If the Department ~~denies~~ *determines* an application ~~is not complete~~, the Department shall include in the written notice the reason for ~~the denial~~ *its determination* and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application. *If the Department determines an application is complete, the Department shall transmit the application to the proposed sponsor for review pursuant to NRS 386.525.*

4. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➔ The term does not include a person who is employed as a substitute teacher.

Sec. 40. NRS 386.525 is hereby amended to read as follows:

386.525 1. ~~Upon approval of an application by the Department, a~~ *Except as otherwise provided in this subsection, a* committee to form a charter school may submit the application to the ~~board of trustees of the school district in which the~~ proposed *sponsor of the* charter school. ~~It will be located, a college or university within the Nevada System of Higher Education, or directly to the Subcommittee on the State Board of Charter Schools.~~ *If the proposed sponsor of a charter school requested that the Department review the application pursuant to NRS 386.520 and the Department determined that the application was not complete pursuant to that section, the application must not be submitted to the proposed sponsor for review pursuant to this section. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the proposed sponsor shall deny the application.*

2. If the board of trustees of a school district ~~or~~ *or* a college or a university ~~or~~ *within the Nevada System of Higher Education,* as applicable, receives an application to form a charter school, the board of trustees or the

institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. *If the proposed sponsor requested that the Department review the application pursuant to NRS 386.520, the proposed sponsor shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.* The board of trustees, the college ~~or the university, for the~~ ~~[Subcommittee on]~~ ~~[State Board of Charter Schools,]~~ as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, *and sections 26 to ~~35.7~~ 35.5, inclusive, of this act* and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the ~~[Department]~~ ~~[State Board of Charter Schools.]~~

~~[2.]~~ *State Public Charter School Authority.*

3. The Department shall assist the board of trustees of a school district, ~~[the State Board of Charter Schools,]~~ the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection ~~1.1~~ 2. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

~~[3.]~~ 4. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[4.]~~ 5. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection ~~[3.]~~ 4., the applicant may submit a written request for sponsorship by the State ~~[Board]~~ ~~[to the Subcommittee on]~~ ~~[of Charter Schools created pursuant to]~~ ~~[NRS 386.507]~~ ~~[section 29 of this act]~~ Public Charter School Authority not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

~~[5.]~~ 6. If the ~~[Subcommittee on]~~ ~~State~~ ~~[Board of Charter Schools]~~ Public Charter School Authority receives an application pursuant to subsection 1 or ~~[4.]~~ 5., it shall hold a meeting to consider the application. *If the State Public Charter School Authority requested that the Department review the application pursuant to NRS 386.520, the State Public Charter School Authority shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.* The

meeting must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~{Subcommittee}~~ **State ~~{Board of Charter Schools}~~ Public Charter School Authority** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection ~~1.1~~ **1.1** ~~{The Subcommittee may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.}~~

6. ~~The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1.1~~ **2. The Department shall assist the State Public Charter School Authority in the review of an application.** The State ~~{Board of Charter Schools}~~ **Public Charter School Authority** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection ~~1.1~~ **2.1**. Not more than 30 days after the meeting, the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** shall provide written notice of its determination to the applicant.

~~7. {6.}~~ If the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~8. {7.}~~ If the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** denies an application after it has been resubmitted pursuant to subsection ~~7, {6.}~~ the applicant may, not more than 30 days after the receipt of the written notice from the State ~~{Board}~~ **Public Charter School Authority**, appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~9. {8.}~~ On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State ~~{Board}~~ **Public Charter School Authority**, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 41. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the State ~~{Board} [,] {of Charter Schools,}~~ **Public Charter School Authority**, the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The State ~~{Board} [,] {of Charter Schools,}~~ **Public Charter School Authority**, the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** approves the application:

(a) The State ~~{Board of Charter Schools}~~ **Public Charter School Authority** shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ~~, {of Education,} the State {Board of Charter Schools}~~ **Public Charter School Authority** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ~~{of Education, the State Board of Charter Schools}~~ nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State ~~{Board of Charter Schools}~~ **Public Charter School Authority** shall adopt :

(a) ~~{An application} {a} A~~ process for a charter school that requests a change in the sponsorship of the charter school, which must not require the ~~{applicant} charter school~~ to undergo all the requirements of an initial application to form a charter school ; and

(b) Objective criteria for the conditions under which such a request may be granted. ~~{If the request is for sponsorship by the State Board of Charter Schools, the governing body must not be required to submit an application and the State Board of Charter Schools shall accept the transfer of the charter school to the State Board of Charter Schools.}~~

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State ~~{Board of Charter~~

~~Schools~~ **Public Charter School Authority** or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate. If the proposed amendment complies with the provisions of ~~[this section,]~~ NRS 386.500 to 386.610, inclusive, **and sections 26 to ~~35.5~~ 35.5, inclusive, of this act,** and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.

7. The State ~~[Board of Charter Schools]~~ **Public Charter School Authority** shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

- (a) Period for which such a written charter is valid; and
 - (b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.
- ➔ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➤ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 42. NRS 386.530 is hereby amended to read as follows:

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

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

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

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

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the ~~{Department}~~ **State {Board of Charter Schools} Public Charter School Authority**. The sponsor shall conduct an intensive review and evaluation of the charter

school in accordance with the regulations of the ~~{Department,}~~ *State ~~{Board of Charter Schools,}~~ Public Charter School Authority*. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

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

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

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

Sec. 43. NRS 386.540 is hereby amended to read as follows:

386.540 1. ~~{The Department}~~ *Subject to the provisions of subsections 3 and 4, the State ~~{Board of Charter Schools,}~~ Public Charter School Authority* shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the ~~{Department, the}~~ board of trustees of a school district, the ~~{Subcommittee on}~~ *State ~~{Board of Charter Schools,}~~ Public Charter School Authority* and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; and

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~{the Subcommittee on Charter Schools,}~~ the State ~~{Board of Charter Schools,}~~ *Public Charter School Authority* and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school or an application to renew a written charter.

2. *Subject to the provisions of subsections 3 and 4, the State ~~{Board of Charter Schools,}~~ Public Charter School Authority may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 26 to ~~{35,}~~ 35.5, inclusive, of this act, including, without limitation, regulations that prescribe the:*

(a) *Requirements for performance audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and*

(b) *Requirements for performance audits every 3 years for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.*

3. The Department may adopt regulations *relating to the finances and budgets of charter schools* as it determines are necessary to carry out the

provisions of NRS 386.500 to 386.610, inclusive, *and sections 26 to ~~35.7~~ 35.5, inclusive, of this act*, including, without limitation, regulations that prescribe the:

- (a) Procedures for accounting and budgeting;
- (b) Requirements for ~~performance audits and~~ financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and
- (c) Requirements for ~~performance audits every 3 years and~~ financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

4. *The State Board of Education may disapprove any regulation adopted by the State ~~Board of Charter Schools~~ Public Charter School Authority if the regulation:*

(a) Threatens the efficient operation of the public schools in this State; or

(b) Creates an undue financial hardship for any charter school in this State.

→ A regulation shall be deemed approved if the State Board of Education does not disapprove the regulation within 45 days after it is adopted by the State ~~Board of Charter Schools~~ Public Charter School Authority.

Sec. 44. NRS 386.547 is hereby amended to read as follows:

386.547 The State ~~Board of Charter Schools~~ Public Charter School Authority shall:

1. Review all statutes and regulations from which charter schools are exempt and determine whether such exemption assisted or impeded the charter schools in achieving their educational goals and objectives.

2. Make available information concerning the formation and operation of charter schools in this State to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public.

Sec. 45. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required ~~by the Department~~ *pursuant to NRS 386.540* contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, ~~of Charter Schools,~~ *and*

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

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

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the ~~{Department}~~ State ~~{Board of Charter Schools}~~ Public Charter School Authority one time every 3 years. The sponsor of the charter school and the ~~{Department}~~ regulations of the State ~~{Board of Charter Schools}~~ Public Charter School Authority shall not ~~{request}~~ require a performance audit of the charter school more frequently than every 3 years without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the ~~{State Board of Charter Schools}~~ Department pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of paragraphs (a), (c), ~~{H}~~ and (d) ~~{and (e)}~~ of subsection 1.

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

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 45.5. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers. **If the board of trustees of a school district or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the governing body and the sponsor must enter into a service agreement pursuant to section 35.3 of this act before the provision of such services.**

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the

board of trustees of the school district and during times that are not regular school hours.

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

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

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

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

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

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

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

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

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

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 46. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the ~~{sponsor of a charter school may request reimbursement from the governing body of the charter school}~~ **Superintendent of Public Instruction shall pay to the sponsor of a charter school one-quarter of the yearly sponsorship fee** for the administrative costs associated with sponsorship for that school quarter ~~{if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection} [9,] {8, upon receipt of such a request, the governing body shall pay the reimbursement to the} {board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors} {sponsor of the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection} [9,] {8, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary.} {If the board of trustees of a school district is the sponsor of a charter school, the} ~~{The amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed} {:~~~~

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

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

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

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

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

5.] ~~[2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.]~~, which must be deducted from the quarterly apportionment to the charter school made pursuant to NRS 387.124. Except as otherwise provided in this subsection, the yearly sponsorship fee for the sponsor of a charter school must be in an amount of money not to exceed 2 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124. If the governing body of a charter school satisfies the requirements of this subsection, the governing body may submit a request to the sponsor of the charter school for transmittal to the Superintendent of Public Instruction for approval of a sponsorship fee in an amount that is less than 2 percent but at least 1 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124. The Superintendent of Public Instruction shall approve such a request if the Superintendent determines that the charter school satisfies the requirements of this subsection. If the Superintendent of Public Instruction approves such a request, the Superintendent shall provide notice of his or her decision to the governing body of the charter school and the sponsor of the charter school. The governing body of a charter school may submit a request for a reduction of the sponsorship fee if:

(a) The charter school has been operating in this State for at least 3 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required pursuant to NRS 386.540 contains no major notations, corrections or errors concerning the charter school for at least 3 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement

in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation; and

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

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

~~{6-}~~ 5. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

~~{7-}~~ 6. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State ~~{Board of Charter Schools}~~ **Public Charter School Authority** may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~{8-}~~ 7. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~{9-}~~ ~~{8-}~~ The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation,

~~documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.~~

Sec. 47. NRS 386.576 is hereby amended to read as follows:

386.576 1. The Fund for Charter Schools is hereby created in the State Treasury as a revolving loan fund, to be administered by the ~~{Department}~~ **State Board of Charter Schools** **Public Charter School Authority**.

2. The money in the revolving fund must be invested as other state funds are invested. All interest and income earned on the money in the revolving fund must be credited to the revolving fund. Any money remaining in the revolving fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.

3. All payments of principal and interest on all the loans made to a charter school from the revolving fund must be deposited in the State Treasury for credit to the revolving fund.

4. Claims against the revolving fund must be paid as other claims against the State are paid.

5. The ~~{Department}~~ **State Board of Charter Schools** **Public Charter School Authority** may accept gifts, grants, bequests and donations from any source for deposit in the revolving fund.

Sec. 48. NRS 386.577 is hereby amended to read as follows:

386.577 1. After deducting the costs directly related to administering the Fund for Charter Schools, the ~~{Department}~~ **State Board of Charter Schools** **Public Charter School Authority** may use the money in the Fund for Charter Schools, including repayments of principal and interest on loans made from the Fund, and interest and income earned on money in the Fund, only to make loans at or below market rate to charter schools for the costs incurred:

(a) In preparing a charter school to commence its first year of operation; and

(b) To improve a charter school that has been in operation.

2. The total amount of a loan that may be made to a charter school in 1 year must not exceed \$25,000.

Sec. 49. NRS 386.578 is hereby amended to read as follows:

386.578 1. If the governing body of a charter school has a written charter issued pursuant to NRS 386.527, the governing body may submit an application to the ~~{Department}~~ **State Board of Charter Schools** **Public Charter School Authority** for a loan from the Fund for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The ~~{Department}~~ **State Board of Charter Schools** **Public Charter School Authority** shall, within the limits of money available for use in the Fund, make loans to charter schools whose applications have been approved.

If the ~~{Department}~~ *State ~~{Board of Charter Schools}~~ **Public Charter School Authority*** makes a loan from the Fund, the ~~{Department}~~ *State ~~{Board of Charter Schools}~~ **Public Charter School Authority*** shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. ~~{The}~~ ***Subject to the provisions of subsection 3 of NRS 386.540, the State ~~{Board}~~ ~~{:}~~ ~~{of Charter Schools}~~ **Public Charter School Authority**:***

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the ~~{Department}~~ *State ~~{Board of Charter Schools}~~ **Public Charter School Authority*** by a charter school that desires to receive a loan from the Fund; and

(2) Period for repayment and the rate of interest for loans made from the Fund.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

Sec. 50. NRS 386.605 is hereby amended to read as follows:

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to ~~{subsection} {2} {3 of}~~ NRS 385.347 to ~~{the board of trustees of the school district in which the charter school is located}~~ *;*

~~(a) If the charter school is sponsored by the board of trustees of a school district or a college or university within the Nevada System of Higher Education, the sponsor of the charter school, which shall forward the information to the State Board of Charter Schools in a timely manner; or~~

~~(b) If the charter school is sponsored by the State Board of Charter Schools, the State Board of Charter Schools,~~

~~→~~ ***the sponsor of the charter school*** for inclusion in the report ~~{of the}~~ ~~{school district}~~ ~~{State Board of Charter Schools}~~ ***required*** pursuant to that section. The information must be submitted ~~{by the charter school}~~ in a format prescribed by the ~~{board of trustees.}~~ *State ~~{Board of Charter Schools}~~ **Public Charter School Authority.***

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218E.625 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted ~~{by charter schools}~~ pursuant to this section and pursuant to NRS 385.357, 385.3745 or 385.3746, whichever is applicable for the school, consult with ~~the ~~{State Board of Charter Schools}~~~~ ***sponsors of the charter schools*** and the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 51. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, ~~{if the}~~ ~~{State Board, the}~~ ~~{board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school,}~~ *{the*

~~Department, the board of trustees or the institution, as applicable, the sponsor of a charter school~~ shall submit a written report to the ~~State Board of Charter Schools, Department.~~ The written report must include:

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

(b) A description of all administrative support and services provided by the ~~Department, the school district or the institution, as applicable, sponsor~~ to the charter school ~~it~~, including, without limitation, an itemized accounting for the costs of the support and services.

(c) An identification of each charter school approved by the sponsor:

(1) Which has not opened and the scheduled time for opening, if any;

(2) Which is open and in operation;

(3) Which has transferred sponsorship;

(4) Whose written charter has been revoked by the sponsor;

(5) Whose written charter has not been renewed by the sponsor; and

(6) Which has voluntarily ceased operation.

(d) A description of the strategic vision of the sponsor for the charter schools that it sponsors and the progress of the sponsor in achieving that vision.

(e) A description of the services provided by the sponsor pursuant to a service agreement entered into with the governing body of the charter school pursuant to section 35.3 of this act, including an itemized accounting of the actual costs of those services.

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

Sec. 52. NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, ~~the [State Board of Charter Schools]~~ **sponsors of charter schools**, the school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➤ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. The information must be considered, but must not be used as the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher, paraprofessional or other employee.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 53. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus **the sponsorship fee prescribed by NRS 386.570 and minus** all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the State ~~Board of Charter Schools~~ **Public Charter School Authority** or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus **the sponsorship fee prescribed by NRS 386.570 and minus** all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the

program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, the State Controller may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 54. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~and~~ ***and similar information included in the annual report of accountability information prepared by the State ~~[Board of Charter Schools]~~ Public Charter School Authority and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;***

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

↪ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

→ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 55. NRS 392.128 is hereby amended to read as follows:

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district *or the State ~~Board of Charter Schools~~ **Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school*** pursuant to subsection ~~7~~ 8 of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chair of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chair of an advisory board divides the advisory board into subcommittees, the chair shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to

assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

Sec. 56. NRS 218E.615 is hereby amended to read as follows:

218E.615 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;
 (2) Legislative measures regarding education;
 (3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

(6) The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, *State ~~Board of Charter Schools,~~ Public Charter School Authority*, school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In

recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785, recommend to the Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 57. NRS 386.507 ~~is~~ and **386.508 are** hereby repealed.

Sec. 58. The Department of Education shall, on or before October 1, 2011, transfer to the Account for the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** created by section 35 of this act any unexpended money collected by the Department pursuant to NRS 386.570 for reimbursement of the administrative costs associated with sponsorship of charter schools sponsored by the State Board of Education.

Sec. 59. Notwithstanding the provisions of section 31 of this act to the contrary, on October 1, 2011, the Governor shall appoint a Director of the State ~~{Board of Charter Schools}~~ **Public Charter School Authority to a term of 3 years. The Director appointed by the Governor must have a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.** Upon the expiration of the term of the Director or if a vacancy occurs before the expiration of the term, the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** shall appoint the Director in accordance with section 31 of this act.

Sec. 60. 1. To assist the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** created by section ~~{29}~~ **28.5** of this act in carrying out its duties and responsibilities, the Director of the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** shall, on or before January 1, 2012:

- (a) Hire an administrative assistant and an accounting assistant; and
- (b) Hire an educational consultant.

2. On January 1, 2012, one management analyst position in the Department of Education with job duties and responsibilities that relate to charter schools must be transferred to the State ~~{Board of Charter Schools}~~ **Public Charter School Authority.**

Sec. 61. On or before January 1, 2012, the members of the State ~~{Board of Charter Schools}~~ **Public Charter School Authority** created by section ~~{29}~~ **28.5** of this act shall be appointed to terms commencing on January 1, 2012, as follows:

1. One member appointed by the Governor to a term that expires on June 30, 2013.

2. One member appointed by the Governor to a term that expires on June 30, 2015.

3. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2013.

4. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2015.

5. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2013.

6. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2015.

7. One member must be appointed by an association of charter schools to a term that expires on June 30, 2015. For the initial selection pursuant to this subsection, the Superintendent of Public Instruction shall designate the association of charter schools that is authorized to appoint a member of the State ~~Board of Charter Schools.~~ **Public Charter School Authority.**

Sec. 62. The Legislative Counsel shall, in preparing the reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 63. Any regulations adopted by the Department of Education or the State Board of Education pursuant to NRS 386.500 to 386.610, inclusive, before January 1, 2012, remain in effect and may be enforced by the State ~~Board of Charter Schools.~~ **Public Charter School Authority** created by section ~~[29]~~ **28.5** of this act until the State ~~Board of Charter Schools.~~ **Public Charter School Authority** adopts regulations to repeal or replace those regulations.

Sec. 64. A charter school that is approved to operate as a charter school sponsored by the State Board of Education before January 1, 2012, shall be deemed to be sponsored by the State ~~Board of Charter Schools.~~ **Public Charter School Authority created pursuant to section 28.5 of this act** commencing on January 1, 2012, and the written charter of the charter school shall remain in effect until the expiration of the written charter, unless the written charter is revoked by the State ~~Board of Charter Schools.~~ **Public Charter School Authority** pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the State ~~Board of Charter Schools.~~ **Public Charter School Authority** for renewal of its written charter pursuant to NRS 386.530.

Sec. 65. 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, 2011, for all other purposes.

TEXT OF REPEALED ~~SECTION~~ SECTIONS

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his or her service on the Subcommittee, the term of the member on the Subcommittee expires when his or her membership on the State Board expires. Members of the Subcommittee may be reappointed.

386.508 Charter School District for State Board-Sponsored Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. There is hereby created a school district to be designated as the Charter School District for State Board-Sponsored Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the State Board or sponsored by a college or university within the Nevada System of Higher Education. The State Board is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School District for purposes of federal law governing charter schools.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 294 makes numerous changes to Senate Bill No. 212. The amendment adds a declaration of legislative findings; changes the name of the charter school board to the State Public Charter School Authority, established as a state-level, high quality charter school sponsor, and designates its mission and regulatory powers; it also clarifies the qualifications of Authority members and staff; clarifies the process allowing charter schools to purchase services from its sponsor; establishes the Authority as a Local Education Agency (LEA) for the schools it sponsors, under the definition of federal law; specifies the powers and duties of a charter school sponsor; revises the State Department of Education's role in regulating charter schools and reviewing applications; establishes a new process for assessing and apportioning the annual sponsorship fee, providing for a reduction of that fee under certain circumstances; and establishes certain reporting requirements for the Authority and other charter school sponsors.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 266.

Bill read second time.

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

Amendment No. 303.

"SUMMARY—Revises provisions governing the possession of pets by tenants of a manufactured home park. (BDR 10-960)"

"AN ACT relating to property; revising provisions governing the possession of pets by tenants of a manufactured home park; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally prohibits a landlord of a manufactured home park or his or her agent or employee from: (1) charging a fee for pets kept by tenants in the park; or (2) including in a rental agreement the requirement to pay an additional fee for keeping a pet. (NRS 118B.050, 118B.140) This bill additionally prohibits a landlord or his or her agent or employee from requiring a tenant to pay a deposit as a prerequisite to keeping a pet in the park. This bill also provides that a landlord ~~for his or her agent or employee shall not prohibit a tenant from keeping a dog or cat as a pet unless the dog or cat poses a threat to the safety of others in the park.~~ **cannot prohibit a tenant from keeping at least one dog or cat as a pet, but authorizes a landlord to adopt reasonable restrictions: (1) prohibiting a tenant from keeping a vicious or dangerous animal; (2) concerning the size of a pet kept by a tenant; and (3) concerning the number of pets kept by a tenant.**

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

Section 1. NRS 118B.140 is hereby amended to read as follows:

118B.140 1. Except as otherwise provided in subsection 2, the landlord or his or her agent or employee shall not:

(a) Require a person to purchase a manufactured home from the landlord or any other person as a condition to renting a manufactured home lot to the purchaser or give an adjustment of rent or fees, or provide any other incentive to induce the purchase of a manufactured home from the landlord or any other person.

(b) Charge or receive:

(1) Any entrance or exit fee for assuming or leaving occupancy of a manufactured home lot.

(2) Any transfer or selling fee or commission as a condition to permitting a tenant to sell his or her manufactured home or recreational vehicle within the manufactured home park, even if the manufactured home or recreational vehicle is to remain within the park, unless the landlord is licensed as a dealer of manufactured homes pursuant to NRS 489.311 and has acted as the tenant's agent in the sale pursuant to a written contract.

(3) Any fee for the tenant's spouse or children.

(4) Any fee for pets kept by a tenant in the park. If special facilities or services are provided, the landlord may also charge a fee reasonably related to the cost of maintenance of the facility or service and the number of pets kept in the facility.

(5) Any additional service fee unless the landlord provides an additional service which is needed to protect the health and welfare of the tenants, and written notice advising each tenant of the additional fee is sent to the tenant 90 days in advance of the first payment to be made, and written notice of the additional fee is given to prospective tenants on or before commencement of their tenancy. A tenant may only be required to pay the additional service fee for the duration of the additional service.

(6) Any fee for a late monthly rental payment within 4 days after the date the rental payment is due or which exceeds \$5 for each day, excluding Saturdays, Sundays and legal holidays, which the payment is overdue, beginning on the day after the payment was due. Any fee for late payment of charges for utilities must be in accordance with the requirements prescribed by the Public Utilities Commission of Nevada.

(7) Any fee, surcharge or rent increase to recover from his or her tenants the costs resulting from converting from a master-metered water system to individual water meters for each manufactured home lot.

(8) Any fee, surcharge or rent increase to recover from his or her tenants any amount that exceeds the amount of the cost for a governmentally mandated service or tax that was paid by the landlord.

(c) Require a tenant to pay a deposit as a prerequisite to keeping a pet in the manufactured home park or prohibit a tenant from keeping ~~at least one dog or cat as a pet~~ . ~~[unless the dog or cat poses a threat to the safety of others in the park.]~~ The landlord may adopt reasonable restrictions:

(1) Prohibiting a tenant from keeping a vicious or dangerous animal;

(2) Concerning the size of a pet kept by a tenant; and

(3) Concerning the number of pets kept by a tenant.

2. Except for the provisions of subparagraphs (3), (4), (6) and (8) of paragraph (b) **and paragraph (c)** of subsection 1, the provisions of this section do not apply to a corporate cooperative park.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 303 to Senate Bill No. 266 provides that a landlord of a manufactured home park may not prohibit a tenant from keeping at least one dog or cat as a pet.

The landlord may also adopt reasonable restrictions; prohibiting a tenant from keeping a vicious or dangerous animal, concerning the size of a pet kept by a tenant and concerning the number of pets kept by a tenant.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 267.

Bill read second time.

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

Amendment No. 304.

"SUMMARY—Revises provisions governing personal information. (BDR 52-110)"

"AN ACT relating to personal information; ~~requiring a business entity or data collector to encrypt or destroy personal information that is stored on a copier, facsimile machine or multifunction device under certain circumstances; requiring an owner or lessor of certain copiers, facsimile machines or multifunction devices to destroy any personal information that is stored on the copier, facsimile machine or multifunction device under certain circumstances;~~ **revising provisions governing the protection of personal information collected by a data collector;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{Section 4 of this bill requires a business entity or a data collector to ensure that any personal information which is stored on the data storage device of a copier, facsimile machine or multifunction device in the possession of the business entity or data collector is securely encrypted or destroyed by certain approved methods before the business entity or data collector relinquishes ownership, physical control or custody of the copier, facsimile machine or multifunction device to another person. Section 4 also requires the owner or lessor of a copier, facsimile machine or multifunction device that is leased or rented to a business entity or data collector to ensure that any personal information which is stored on the copier, facsimile machine or multifunction device is destroyed by certain approved methods as soon as practicable after the termination or cancellation of the lease agreement or rental contract, or upon assuming physical custody or control of the copier, facsimile machine or multifunction device.}~~ **Existing law prohibits a data collector from moving any data storage device containing personal information beyond the control of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information. (NRS 603A.215) Section 6 of this bill additionally prohibits a data collector from moving a data storage device which is used by or is a component of a multifunctional device beyond the control of the data collector, its data storage contractor or a person who assumes the obligation of the data collector to protect personal information unless the data collector uses encryption to ensure the security of the information.**

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 603A.215 is hereby amended to read as follows:

603A.215 1. If a data collector doing business in this State accepts a payment card in connection with a sale of goods or services, the data collector shall comply with the current version of the Payment Card Industry (PCI) Data Security Standard, as adopted by the PCI Security Standards Council or its successor organization, with respect to those transactions, not later than the date for compliance set forth in the Payment Card Industry (PCI) Data Security Standard or by the PCI Security Standards Council or its successor organization.

2. A data collector doing business in this State to whom subsection 1 does not apply shall not:

(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector, ~~for~~ its data storage contractor ***or, if the data storage device is used by or is a component of a multifunctional device, a person who assumes the obligation of the data collector to protect personal information,*** unless the data collector uses encryption to ensure the security of the information.

3. A data collector shall not be liable for damages for a breach of the security of the system data if:

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

4. The requirements of this section do not apply to:

(a) A telecommunication provider acting solely in the role of conveying the communications of other persons, regardless of the mode of conveyance used, including, without limitation:

(1) Optical, wire line and wireless facilities;

(2) Analog transmission; and

(3) Digital subscriber line transmission, voice over Internet protocol and other digital transmission technology.

(b) Data transmission over a secure, private communication channel for:

(1) Approval or processing of negotiable instruments, electronic fund transfers or similar payment methods; or

(2) Issuance of reports regarding account closures due to fraud, substantial overdrafts, abuse of automatic teller machines or related information regarding a customer.

5. As used in this section:

(a) "Data storage device" means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) "Encryption" means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology.

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third device after protocol conversion, including, but not limited to, any data storage device.

(d) ~~##~~ "Multifunctional device" means a machine that incorporates the functionality of devices, which may include, without limitation, a printer, copier, scanner, facsimile machine or electronic mail terminal, to provide for the centralized management, distribution or production of documents.

(e) "Payment card" has the meaning ascribed to it in NRS 205.602.

~~(e)~~ ~~##~~ (f) "Telecommunication provider" has the meaning ascribed to it in NRS 704.027.

Senator Halseth moved the adoption of the amendment.

Remarks by Senators Halseth and Schneider.

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

SENATOR HALSETH:

Amendment No. 304 to Senate Bill No. 267 revises the bill as a whole.

Instead, the amendment provides that a data collector doing business in Nevada who is not subject to the Payment Card Industry Data Security Standard shall take certain steps to ensure that personal information stored on certain machines is secure.

The amendment requires that a data collector shall not move any data storage device containing personal information beyond the logical or physical controls of a service provider that assumes the obligation of the data collector to protect the personal information, if the data storage device is used by, or as a component of, a multifunctional device, unless the data collector uses encryption to ensure the security of the information.

The amendment also defines the term, "multifunctional device."

SENATOR SCHNEIDER:

Thank you, Mr. President. This is probably one of the most important bills of the session. I did not know anything about this until it was presented. People and businesses have copier machines. The information for any copy that has been made is stored on the hard drive of the copier. Attorneys' offices, doctors' offices and all other offices that use copiers trade their old

machines in for newer models. All of the copies they have made are stored on the hard drive and can be accessed by anyone. This is a great bill and I want to commend my fellow Senator for bringing this bill to us.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 278.

Bill read second time.

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

Amendment No. 267.

"SUMMARY—Revises provisions relating to health care and health insurance. (BDR 57-253)"

"AN ACT relating to health care; ~~requiring the Commissioner of Insurance to establish a task force to study the use in this State of electronic identification cards that contain certain health insurance information; setting forth the powers and duties of the task force and the requirements of the study; requiring the Division of Insurance of the Department of Business and Industry to provide administrative support for the task force; prohibiting certain insurers and certain self-insured governmental entities from requiring prior authorization for medical and dental care under certain circumstances;~~ revising provisions governing the modification of contracts between insurers and providers of health care under certain circumstances; requiring the ~~Director of the~~ Department of Health and Human Services to ~~prescribe a minimum~~ **report certain rates of reimbursement rate for physicians** for care and services provided pursuant to **certain** state plans **and programs** which provide medical assistance; **providing that certain requirements concerning health insurance shall be deemed not to apply to certain nonprofit entities;** revising the requirement that certain insurers and health care facilities accept a standardized form to obtain information relating to the credentials of a provider of health care; **requiring the Department to conduct a study concerning medical homes;** requiring ~~to report concerning the results of the study of electronic identification cards by the task force and any recommendations for legislation to be provided~~ **the Department to submit reports concerning certain studies** to the Legislature; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Section 2 of this bill requires the Commissioner of Insurance to establish a task force on the use in this State of electronic identification cards that contain information relating to health insurance. The task force must consist of the Commissioner, the Director of the Department of Health and Human Services and three other members with knowledge and experience concerning health insurance or health care in this State who are appointed by the Commissioner. Section 3 of this bill requires the task force to study the use in this State of electronic identification cards which contain in an~~

~~electronic format the information that is necessary to process a claim for coverage under a health care plan and specifies the issues that must be included in the study. Section 5 of this bill requires the Division of Insurance of the Department of Business and Industry to provide administrative support for the task force. Section 22 of this bill requires the Commissioner of Insurance, on or before January 31, 2013, to submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the results of the study conducted by the task force and any recommendations for legislation.~~

~~Sections 6 and 18 of this bill prohibit certain insurers and self-insured governmental entities from requiring an insured to obtain prior authorization for medical and dental care if certain conditions are met including that: (1) the insured has been diagnosed with a severe or chronic condition by a specialized health care provider; (2) the insurer or entity has confirmed the diagnosis; (3) the medical or dental service is covered by the contract or plan of insurance; (4) the medical or dental service is clinically appropriate; (5) the medical or dental service is medically necessary; and (6) the medical or dental service is not more costly than and is equally effective as other services. The Commissioner is required to adopt regulations for carrying out the provisions of section 6.]~~

Sections 8-12, 14 and 15 of this bill require written notice of a contract modification between certain insurers and a provider of health care **which involves the insurer's schedule of payments** to be sent to the provider at least ~~{90}~~ **45** days before the proposed modification will take effect ~~{,}~~, **and require such insurers, upon request, to submit to a provider of health care with whom they contract any changes to the fee schedule applicable to the provider's practice. Section 14.5 of this bill imposes similar requirements with respect to contracts between an organization for dental care and a dentist and, consistent with similar provisions of law, provides that such a contract may be modified at any time pursuant to a written agreement executed by both parties.**

Section 16 of this bill requires the ~~{Director of the}~~ Department of Health and Human Services **, with respect to the State Plan for Medicaid and the Children's Health Insurance Program,** to ~~{include in each state plan which provides medical assistance a rate for reimbursing providers of health care which is not lower than the rate offered by Medicare in 2002.}~~ **report every rate of reimbursement for physicians which is provided on a fee-for-service basis and which is lower than the rate provided on the current Medicare fee schedule for care and services provided by physicians. Section 16 also requires the Director of the Department to publish a schedule of such rates of reimbursement on an Internet website maintained by the Department {,} and to submit an annual report concerning such rates to the Legislature.**

Section 17.5 of this bill provides that certain requirements concerning health insurance that are enacted after January 1, 2011, shall be deemed not to apply to certain nonprofit entities.

Existing law requires the Commissioner of Insurance to prescribe a single, standardized form for use by insurers, carriers, societies, corporations, health maintenance organizations and managed care organizations to obtain any information relating to the credentials of a provider of health care. (NRS 629.095) **Section 21** of this bill requires the Commissioner to prescribe that form for use by ~~insurers that provide medical malpractice insurance,~~ hospitals, medical facilities and other facilities that provide health care.

Section 24.5 of this bill requires the Department of Health and Human Services to conduct a study concerning medical homes and to submit certain reports concerning the study to the Legislature. Section 24.7 of this bill imposes similar reporting requirements on the Department with respect to its study of electronic identification cards that contain information relating to health insurance.

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

Section 1. ~~{Chapter 679B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.}~~ **(Deleted by amendment.)**

Sec. 2. ~~{1. The Commissioner shall establish a task force on the use in this State of electronic identification cards that contain information relating to health insurance.~~

~~2. The task force must consist of the Commissioner, the Director of the Department of Health and Human Services and three other members with knowledge and experience concerning health insurance or health care in this State who are appointed by the Commissioner. A vacancy in the membership of the task force must be filled in the same manner as the original appointment.~~

~~3. The Commissioner is the Chair of the task force.~~

~~4. The task force shall meet at the call of the Commissioner. The task force shall prescribe regulations for its management and government.~~

~~5. A majority of the members of the task force constitutes a quorum, and a quorum may exercise all the powers conferred on the task force.~~

~~6. The appointed members of the task force serve at the pleasure of the Commissioner.~~

~~7. Except as otherwise provided in this subsection, the members of the task force serve without compensation. The members of the task force who are state employees must be relieved from their duties without loss of their regular compensation to perform their duties relating to the task force in the most timely manner practicable. The state employees may not be required to make up the time they are absent from work to fulfill their obligations as members of the task force or take annual leave or compensatory time for the absence. While engaged in the business of the task force, each member is~~

~~entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.] (Deleted by amendment.)~~

Sec. 3. ~~[1. The task force shall study the use in this State of electronic identification cards which contain in an electronic format the information that is necessary to process a claim for coverage under a health care plan, including, without limitation:~~

~~(a) Issues relating to the security, privacy, data content, storage and confidentiality of information contained on or in an electronic identification card and methods to ensure the security, privacy and confidentiality of such information;~~

~~(b) The issuance, usage and contents of electronic identification cards;~~

~~(c) The standards for technology and tools through which information contained on or in electronic identification cards may be electronically recognized, exchanged, transmitted and stored using machine-readable technology, which may include, without limitation, bar codes, magnetic strips or radio frequency identification;~~

~~(d) The information that may be electronically recognized, exchanged, transmitted and stored on electronic identification cards;~~

~~(e) The methods for verifying coverage and eligibility for benefits, requirements for processing requests for prior authorization and requirements for denying coverage through the use of electronic data interchange;~~

~~(f) The structure and format of the information contained on or in an electronic identification card;~~

~~(g) The insurers, providers of health care and other persons who should be required to issue or accept electronic identification cards;~~

~~(h) The effect of all applicable state and federal laws on any program used to produce or use electronic identification cards;~~

~~(i) The advisability of requiring the use of electronic identification cards in this State;~~

~~(j) If the task force determines that the use of electronic identification cards in this State should be required, the most efficient and cost-effective manner in which a program requiring the use of electronic identification cards could be implemented in this State;~~

~~2. The task force may also include in the study an evaluation of the use of any other technological device similar to an electronic identification card.] (Deleted by amendment.)~~

Sec. 4. ~~[The task force may apply for any available grants and accept any gifts, grants or donations to assist the task force in carrying out its duties pursuant to sections 2 to 5, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 5. ~~[The Division shall provide the personnel, facilities, equipment and supplies required by the task force to carry out its duties pursuant to sections 2 to 5, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 6. ~~[Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A contract for group, blanket or individual health insurance or any contract issued by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for the payment of a certain part of medical or dental care must not require an insured or member who has been diagnosed with a severe or chronic condition by a provider of health care who is specialized in the care or treatment of the severe or chronic condition to obtain prior authorization for a medical or dental service for the care of that condition if:~~

~~(a) The insurer or organization has confirmed the diagnosis of the severe or chronic condition made by the provider of health care;~~

~~(b) The provider of health care is ordering a medical or dental service that is covered by the contract as a service for the severe or chronic condition;~~

~~(c) The type, frequency, dosage and duration of the medical or dental service is considered effective for the severe or chronic condition;~~

~~(d) The medical or dental service is medically necessary for the severe or chronic condition; and~~

~~(e) The medical or dental service is not more costly than an alternative medical or dental service or sequence of services and is at least as likely to produce an equivalent therapeutic or diagnostic result.~~

~~2. The Commissioner shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, regulations:~~

~~(a) Identifying the severe or chronic conditions to which the provisions of this section apply, which must include, without limitation, cancer, pulmonary disease and heart disease;~~

~~(b) Determining the qualifications for a provider of health care to be considered specialized in the treatment of a particular severe or chronic condition for the purposes of this section, which may include, without limitation, certification by a specialty board of the American Board of Medical Specialties or by the American Osteopathic Association or any similar organization;~~

~~(c) Identifying the types of medical or dental services for which prior authorization is not required pursuant to this section; and~~

~~(d) Defining the term "medically necessary" as that term is used in this section;~~

~~3. The insurer or organization shall:~~

~~(a) File its procedure for confirming a diagnosis of a severe or chronic condition pursuant to this section for approval by the Commissioner; and~~

~~(b) Respond to any request for the confirmation of a diagnosis of a severe or chronic condition by the insured or member pursuant to this section within 20 days after it receives the request.~~

~~4. As used in this section, "medical or dental service" means any care, treatment, monitoring or evaluation of a medical or dental condition, including, without limitation, the provision of testing, imaging services,~~

~~medication, medical supplies and devices, therapy and any other professional or technical service which is used to provide medical or dental care.~~ **(Deleted by amendment.)**

Sec. 7. ~~NRS 687B.225 is hereby amended to read as follows:~~

~~687B.225 1. Except as otherwise provided in NRS 689A.0405, 689A.0413, 689A.044, 689A.0445, 689B.031, 689B.0313, 689B.0317, 689B.0374, 695B.1912, 695B.1914, 695B.1925, 695B.1942, 695C.1713, 695C.1735, 695C.1745, 695C.1751, 695G.170, 695G.171 and 695G.177, and section 6 of this act, any contract for group, blanket or individual health insurance or any contract by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for payment of a certain part of medical or dental care may require the insured or member to obtain prior authorization for that care from the insurer or organization. The insurer or organization shall:~~

~~(a) File its procedure for obtaining approval of care pursuant to this section for approval by the Commissioner; and~~

~~(b) Respond to any request for approval by the insured or member pursuant to this section within 20 days after it receives the request.~~

~~2. The procedure for prior authorization may not discriminate among persons licensed to provide the covered care.~~ **(Deleted by amendment.)**

Sec. 8. NRS 689A.035 is hereby amended to read as follows:

689A.035 1. An insurer shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the insurer to its insureds.

2. An insurer shall not contract with a provider of health care to provide health care to an insured unless the insurer uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between an insurer and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the insurer upon giving to the provider ~~{30} {90}~~ **45** days' written notice of the modification ~~{-}~~ ~~{pursuant to subsection 4.}~~ **of the insurer's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.** If the provider fails to object in writing to the modification within the ~~{30-day}~~ ~~{90-day}~~ **45-day** period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ ~~{90-day}~~ **45-day** period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. ~~{An insurer that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the insurer and the provider. The~~

~~exterior of the notice must bear a statement, in at least 12-point bold type or font, in substantially the following form:~~

~~OFFICIAL NOTICE OF CONTRACT MODIFICATION~~

~~5-7~~ If an insurer contracts with a provider of health care to provide health care to an insured, the insurer shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments , including any changes to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

~~5, 6-7~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 9. NRS 689B.015 is hereby amended to read as follows:

689B.015 1. An insurer that issues a policy of group health insurance shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the insurer to its insureds.

2. An insurer specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the insurer uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between an insurer specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the insurer upon giving to the provider ~~{30} {90}~~ 45 days' written notice of the modification ~~{ } { }~~ of the insurer's schedule of payments, including any changes to the fee schedule applicable to the provider's practice. If the provider fails to object in writing to the modification within the ~~{30-day} {90-day}~~ 45-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} {90-day}~~ 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

~~4. {An insurer that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the insurer and the provider. The exterior of the notice must bear a statement, in at least 12-point bold type or font, in substantially the following form:~~

~~OFFICIAL NOTICE OF CONTRACT MODIFICATION~~

~~5-7~~ If an insurer specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the insurer shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, **including any changes to the fee schedule applicable to the provider's practice**, specified in paragraph (a) within 7 days after receiving the request.

5. ~~6.~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 10. NRS 689C.435 is hereby amended to read as follows:

689C.435 1. A carrier serving small employers and a carrier that offers a contract to a voluntary purchasing group shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the carrier to its insureds.

2. A carrier specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the carrier uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a carrier specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the carrier upon giving to the provider ~~{30} {90}~~ 45 days' written notice of the modification ~~{-}~~ **of the carrier's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.** If the provider fails to object in writing to the modification within the ~~{30-day} {90-day}~~ 45 day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} {90-day}~~ 45 day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. ~~{A carrier that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the carrier and the provider. The exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:}~~

OFFICIAL NOTICE OF CONTRACT MODIFICATION

~~5.~~ If a carrier specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the carrier shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, **including any changes**

to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

5. ~~6.~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 11. NRS 695A.095 is hereby amended to read as follows:

695A.095 1. A society shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the society to its insureds.

2. A society shall not contract with a provider of health care to provide health care to an insured unless the society uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a society and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the society upon giving to the provider ~~{30} ~~90~~ 45~~ days' written notice of the modification ~~{~~pursuant to subsection 4.~~ of the society's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.~~ If the provider fails to object in writing to the modification within the ~~{30-day} ~~90-day~~ 45-day~~ period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} ~~90-day~~ 45-day~~ period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. ~~{A society that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the society and the provider. The exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:~~

OFFICIAL NOTICE OF CONTRACT MODIFICATION

~~5.~~ If a society contracts with a provider of health care to provide health care to an insured, the society shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, including any changes to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

5. ~~6.~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 12. NRS 695B.035 is hereby amended to read as follows:

695B.035 1. A corporation subject to the provisions of this chapter shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the corporation to its insureds.

2. A corporation specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the corporation uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a corporation specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the corporation upon giving to the provider ~~{30} {90}~~ 45 days' written notice of the modification ~~{ } {pursuant to subsection 4.}~~ of the corporation's schedule of payments, including any changes to the fee schedule applicable to the provider's practice. If the provider fails to object in writing to the modification within the ~~{30-day} {90-day}~~ 45-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} {90-day}~~ 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. ~~{A corporation specified in subsection 1 that wishes to modify a contract pursuant to paragraph (b) of subsection 3 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the corporation and the provider. The exterior of the notice must bear a statement, in at least 12-point bold type or font, in substantially the following form:}~~

~~OFFICIAL NOTICE OF CONTRACT MODIFICATION~~

~~5.7~~ If a corporation specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the corporation shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, , including any changes to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

~~5. {6.}~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 13. ~~{NRS 695B.320 is hereby amended to read as follows:}~~

~~695B.320 Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive,~~

~~687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, and section 6 of this act, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, and chapters 692C and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.]~~
(Deleted by amendment.)

Sec. 14. NRS 695C.125 is hereby amended to read as follows:

695C.125 1. A health maintenance organization shall not contract with a provider of health care to provide health care to an insured unless the health maintenance organization uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

2. A contract between a health maintenance organization and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the health maintenance organization upon giving to the provider {30} ~~{90}~~ **45** days' written notice of the modification ~~{ } pursuant to subsection 3.~~ **of the health maintenance organization's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.** If the provider fails to object in writing to the modification within the {30-day} ~~{90-day}~~ **45-day** period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the {30-day} ~~{90-day}~~ **45-day** period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

3. ~~{A health maintenance organization that wishes to modify a contract pursuant to paragraph (b) of subsection 2 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the health maintenance organization and the provider. The exterior of the notice must bear a statement, in at least 12 point bold type or font, in substantially the following form:}~~

OFFICIAL NOTICE OF CONTRACT MODIFICATION

~~4.~~ If a health maintenance organization contracts with a provider of health care to provide health care to an enrollee, the health maintenance organization shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments **, including any changes to the fee schedule applicable to the provider's practice,** specified in paragraph (a) within 7 days after receiving the request.

4. ~~5.~~ As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 14.5. Chapter 695D of NRS is hereby amended by adding thereto a new section to read as follows:

1. A contract between an organization for dental care and a dentist may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the organization for dental care upon giving to the dentist 45 days' written notice of the modification of the organization for dental care's schedule of payments, including any changes to the fee schedule applicable to the dentist's practice. If the dentist fails to object in writing to the modification within the 45-day period, the modification becomes effective at the end of that period. If the dentist objects in writing to the modification within the 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

2. If an organization for dental care contracts with a dentist, the organization for dental care shall:

(a) If requested by the dentist at the time the contract is made, submit to the dentist the schedule of payments applicable to the dentist; or

(b) If requested by the dentist at any other time, submit to the dentist the schedule of payments, including any changes to the fee schedule applicable to the dentist's practice, specified in paragraph (a) within 7 days after receiving the request.

Sec. 15. NRS 695G.430 is hereby amended to read as follows:

695G.430 1. A managed care organization shall not contract with a provider of health care to provide health care to an insured unless the managed care organization uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

2. A contract between a managed care organization and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the managed care organization upon giving to the provider ~~{30}~~ ~~{90}~~ **45** days' written notice of the modification ~~{ }~~ ~~pursuant to subsection 3.~~ **of the managed care organization's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.** If the provider fails to object in writing to the modification within the ~~{30-day}~~ ~~{90-day}~~ **45-day** period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ ~~{90-day}~~ **45-day** period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

3. ~~A managed care organization that wishes to modify a contract pursuant to paragraph (b) of subsection 2 shall mail by certified or registered mail, return receipt requested, to the provider of health care written notice of a modification to the contract between the managed care organization and the provider. The exterior of the notice must bear a statement, in at least 12-point bold type or font, in substantially the following form:~~

OFFICIAL NOTICE OF CONTRACT MODIFICATION

4. ~~If a managed care organization contracts with a provider of health care to provide health care services pursuant to chapter 689A, 689B, 689C, 695A, 695B or 695C of NRS, the managed care organization shall:~~

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments, **including any changes to the fee schedule applicable to the provider's practice,** specified in paragraph (a) within 7 days after receiving the request.

4. ~~As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.~~

Sec. 16. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The Director shall provide in each state plan adopted by the Director which provides medical assistance, including, without limitation, the State Plan for Medicaid and the Children's Health Insurance Program and any waiver to such plans, a rate of reimbursement for providers of health care which is not~~ **The Department, with respect to the State Plan for Medicaid and the Children's Health Insurance Program, shall report every rate of reimbursement for physicians which is provided on a fee-for-service basis and which is lower than the rate offered by Medicare on January 1, 2002, provided on the current Medicare fee schedule for care and services provided pursuant to the state plan, by physicians.**

2. ~~The Director shall post on an Internet website maintained by the Department a schedule of the such rates provided by each state plan adopted by the Director which provides medical assistance, of reimbursement.~~

3. ~~The Director shall, on or before February 1 of each year, submit a report concerning the schedule of such rates of reimbursement to the Director of the Legislative Counsel Bureau for transmittal to the Legislature in odd-numbered years or to the Legislative Committee on Health Care in even-numbered years.~~

Sec. 17. NRS 232.290 is hereby amended to read as follows:

232.290 As used in NRS 232.290 to 232.484, inclusive, ***and section 16 of this act,*** unless the context requires otherwise:

1. "Department" means the Department of Health and Human Services.
2. "Director" means the Director of the Department.

Sec. 17.5. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

Any provision of this chapter which is enacted after January 1, 2011, and requires coverage for screening, diagnosis or treatment of any specific medical condition, or specifies or limits exclusions, limitations or eligibility requirements therefor, shall be deemed not to apply to any nonprofit entity that qualifies under Section 501(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c), as amended.

Sec. 18. [Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. If the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada provides health insurance through a plan of self insurance, the plan must not require an insured who has been diagnosed with a severe or chronic condition by a provider of health care who is specialized in the care or treatment of the severe or chronic condition to obtain prior authorization for a medical or dental service for the care of that condition if:~~

~~(a) The insurer has confirmed the diagnosis of the severe or chronic condition made by the provider of health care;~~

~~(b) The provider of health care is ordering a medical or dental service that is covered by the plan as a service for the severe or chronic condition;~~

~~(c) The type, frequency, dosage and duration of the medical or dental service is considered effective for the severe or chronic condition;~~

~~(d) The medical or dental service is medically necessary for the severe or chronic condition; and~~

~~(e) The medical or dental service is not more costly than an alternative medical or dental service or sequence of services and is at least as likely to produce an equivalent therapeutic or diagnostic result.~~

~~2. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self insurance shall, as part of its plan of self insurance and in a manner consistent with the regulations adopted by the Commissioner of Insurance pursuant to section 6 of this act:~~

~~(a) Identify the severe or chronic conditions to which the provisions of this section apply, which must include, without limitation, cancer, pulmonary disease and heart disease;~~

~~(b) Determine the qualifications for a provider of health care to be considered specialized in the treatment of a particular severe or chronic condition for the purposes of this section, which may include, without limitation, certification by a specialty board of the American Board of~~

~~Medical Specialties or by the American Osteopathic Association or any similar organization;~~

~~(c) Identify the types of medical or dental services for which prior authorization is not required pursuant to this section; and~~

~~(d) Define the term "medically necessary" as that term is used in this section.~~

~~3. As used in this section, "medical or dental service" means any care, treatment, monitoring or evaluation of a medical or dental condition, including, without limitation, the provision of testing, imaging services, medication, medical supplies and devices, therapy and any other professional or technical service which is used to provide medical or dental care.~~ **(Deleted by amendment.)**

Sec. 19. ~~[NRS 287.040 is hereby amended to read as follows:~~

~~287.040 The provisions of NRS 287.010 to 287.040, inclusive, and section 18 of this act do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, except as otherwise provided in NRS 287.021 or subsection 4 of NRS 287.023 or in an agreement entered into pursuant to subsection 3 of NRS 287.015, to pay any premiums, contributions or other costs for group insurance, a plan of benefits or medical or hospital services established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, for coverage under the Public Employees' Benefits Program, or to make any contributions to a trust fund established pursuant to NRS 287.017, or upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State to accept any such coverage or to assign his or her wages or salary in payment of premiums or contributions therefor.] **(Deleted by amendment.)**~~

Sec. 20. ~~[NRS 287.04335 is hereby amended to read as follows:~~

~~287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, and section 6 of this act in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.] **(Deleted by amendment.)**~~

Sec. 21. NRS 629.095 is hereby amended to read as follows:

629.095 1. Except as otherwise provided in subsection 2, the Commissioner of Insurance shall develop, prescribe for use and make available a single, standardized form for use by insurers, carriers, societies, corporations, health maintenance organizations , ~~{and}~~ managed care organizations , *hospitals, medical facilities and other facilities that provide health care* in obtaining any information related to the credentials of a provider of health care.

2. The provisions of subsection 1 do not prohibit the Commissioner of Insurance from developing, prescribing for use and making available:

(a) Appropriate variations of the form described in that subsection for use in different geographical regions of this State.

(b) Addenda or supplements to the form described in that subsection to address, until such time as a new form may be developed, prescribed for use and made available, any requirements newly imposed by the Federal Government, the State or one of its agencies, or a body that accredits hospitals, medical facilities or health care plans.

3. With respect to the form described in subsection 1, the Commissioner of Insurance shall:

(a) Hold public hearings to seek input regarding the development of the form;

(b) Develop the form in consideration of the input received pursuant to paragraph (a);

(c) Ensure that the form is developed in such a manner as to accommodate and reflect the different types of credentials applicable to different classes of providers of health care;

(d) Ensure that the form is developed in such a manner as to reflect standards of accreditation adopted by national organizations which accredit hospitals, medical facilities and health care plans; and

(e) Ensure that the form is developed to be used efficiently and is developed to be neither unduly long nor unduly voluminous.

4. As used in this section:

(a) "Carrier" has the meaning ascribed to it in NRS 689C.025.

(b) "Corporation" means a corporation operating pursuant to the provisions of chapter 695B of NRS.

(c) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(d) "Insurer" means:

(1) An insurer that issues policies of individual health insurance in accordance with chapter 689A of NRS; and

(2) An insurer that issues policies of group health insurance in accordance with chapter 689B of NRS ~~and~~

~~(3) An insurer that issues policies of insurance for medical malpractice, as defined in NRS 679B.144.~~

(e) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

(f) "Provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

(g) "Society" has the meaning ascribed to it in NRS 695A.044.

Sec. 22. ~~{The Commissioner of Insurance shall, on or before January 31, 2013, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the results of the study conducted by the task force established~~

~~pursuant to section 2 of this act concerning the use in this State of electronic identification cards and any recommendations for legislation.}] (Deleted by amendment.)~~

~~Sec. 23. [1. A contract for group, blanket or individual health insurance or any contract issued by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for payment of a certain part of medical or dental care which is delivered, issued for delivery or renewed on or after January 1, 2012, must comply with the provisions of section 6 of this act.~~

~~2. A plan of self insurance governed by NRS 287.04335, as amended by section 20 of this act, must ensure that any plan which is delivered, issued for delivery or renewed on or after January 1, 2012, complies with the provisions of section 18 of this act.}] (Deleted by amendment.)~~

~~Sec. 24. [A provider of health care who provides care or services on or after January 1, 2012, pursuant to a state plan which provides medical assistance must be reimbursed at the rate:~~

~~1. Described in section 16 of this act; or~~

~~2. Provided in the state plan;~~

~~→ whichever is higher.}] (Deleted by amendment.)~~

Sec. 24.5. 1. The Department of Health and Human Services shall conduct a study concerning medical homes. The study must include, without limitation, an evaluation of:

(a) The progress made in the development of medical homes in this State;

(b) The manner in which insurers work with medical homes concerning the adequacy of health care networks; and

(c) Models for reimbursement of medical homes and any options for different methods of preauthorization for the care and services provided by medical homes.

2. The Department shall:

(a) During the calendar year 2012, submit such progress reports concerning the study to the Legislative Committee on Health Care as requested by the Committee; and

(b) On or before January 1, 2013, submit a final report concerning the findings of the study, including the potential cost to this State of such medical homes and any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

3. As used in this section, "medical home" means a medical practice which utilizes a model for the delivery of health care:

(a) In which a patient establishes an ongoing relationship with a physician in a physician-directed team; and

(b) The purpose of which is to provide comprehensive, accessible and continuous evidence-based primary and preventive care and to coordinate the health care needs of the patient across the health care

system to improve quality, safety, access and health outcomes in a cost-effective manner.

Sec. 24.7. The Department of Health and Human Services, with respect to the study being conducted by the Department concerning electronic identification cards that contain information relating to health insurance, shall:

1. During the calendar year 2012, submit such progress reports concerning the study to the Legislative Committee on Health Care as requested by the Committee; and

2. On or before January 1, 2013, submit a final report concerning the findings of the study, including the potential cost to this State of such electronic identification cards and any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

Sec. 25. 1. This section and ~~sections 1 to 5, inclusive, and 22~~ section 17.5 of this act become effective upon passage and approval.

2. ~~Sections 6 to 15, inclusive, 18 to 21, inclusive, and 23 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.~~

3. ~~Sections 16, 17 and 24 of this act become effective upon passage and approval for the purpose of amending state plans which provide medical assistance and on January 1, 2012, for all other purposes.~~

4. ~~Sections 1 to 5, inclusive, and 22 of this act expire by limitation on February 1, 2013.~~ Sections 1 to 17, inclusive, 18, 19, 20 and 22 to 24.7, inclusive, of this act become effective on July 1, 2011.

3. Section 21 of this act becomes effective on January 1, 2012.

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 267 to Senate Bill No. 278 provides that a contract between an insurer and a provider of health care may be modified by the insurer after giving the provider 45 days written notice of the modification of the insurer's schedule of payments, including any changes to the fee schedule applicable to the provider's practice. The amendment also specifies how modifications may be made to a contract between an organization for dental care and a dentist.

It requires the Department of Health and Human Services to report certain rates of reimbursement for physicians for care provided pursuant to the State Plan for Medicaid and the Children's Health Insurance Program.

It exempts certain nonprofit entities from certain requirements concerning health insurance.

The amendment requires the Department to conduct a study of medical homes and of electronic identification cards containing information relating to health insurance.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 291.

Bill read second time.

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

Amendment No. 301.

"SUMMARY—Revises provisions governing operators of tanning establishments. (BDR 52-957)"

"AN ACT relating to tanning establishments; prohibiting an operator of a tanning establishment from allowing a person who is less than 18 years of age to use the tanning equipment of the establishment without **first identifying and** obtaining the written consent of the parent or guardian of the person; authorizing a parent or guardian to bring an action against an owner or operator of a tanning establishment who fails to **identify the parent or guardian and** obtain ~~such~~ **his or her** written consent; **providing that an owner or operator of a tanning establishment is not liable in such an action if the owner or operator complies with certain procedural requirements in good faith;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill prohibits an operator of a tanning establishment from allowing a person who is less than 18 years of age to use the tanning equipment of the establishment unless the operator first **identifies and** obtains the written consent of the parent or guardian of the person. **Section 6** of this bill authorizes a parent or guardian to bring an action against an operator who allows a child of the parent or guardian to use the tanning equipment of the establishment and who does not first **identify and** obtain the written consent of the parent or guardian. **Section 6 provides that the owner or operator of a tanning establishment is not liable in such an action if the owner or operator identified and obtained the written consent of the parent or guardian in good faith and pursuant to the procedural requirements set forth in section 5.**

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Tanning equipment" means any device that emits ultraviolet radiation to tan human skin, including, without limitation, sunlamps, tanning booths and tanning beds.*

Sec. 4. *"Tanning establishment" means any premises, mobile unit, building or part of a building where access to tanning equipment is provided for a fee, membership dues or any other compensation.*

Sec. 5. 1. *An operator of a tanning establishment shall not allow a person who is less than 18 years of age to use tanning equipment unless ~~that~~ :*

(a) A parent or guardian of the person physically appears at the tanning establishment and produces a driver's license or other government-issued identification as evidence of his or her identity; and

(b) The operator of the tanning establishment ~~first~~ obtains the written consent of ~~the~~ the parent or guardian of the person ~~to~~, which must include a statement that he or she is a parent or guardian of the person and which expressly authorizes the person to use the tanning equipment of the tanning establishment.

2. The written consent of a parent or guardian obtained by an operator of a tanning establishment pursuant to subsection 1 expires 1 year after the date on which it is obtained and may be renewed by the parent or guardian.

3. A person qualified to operate the tanning equipment of the tanning establishment must be present at the tanning establishment at all times while a person who is less than 18 years of age is using the tanning equipment.

4. The operator of a tanning establishment shall maintain a copy of any written consent obtained from a parent or guardian of a person who is less than 18 years of age pursuant to this section for a period of not less than 1 year after the most recent use of the tanning equipment by the person.

Sec. 6. 1. A parent or guardian of a person who is less than 18 years of age may bring an action against an owner or operator of a tanning establishment who does not identify and obtain written consent from a parent or guardian of the person in the manner prescribed by subsection 1 of section 5 of this act.

2. ~~For~~ Except as otherwise provided in subsection 4, in an action brought pursuant to this section, if a parent or guardian of a person who is less than 18 years of age establishes that an owner or operator of a tanning establishment did not identify and obtain written consent from a parent or guardian of the person in the manner prescribed by subsection 1 of section 5 of this act, a court shall award the parent or guardian, in addition to costs and attorney's fees:

(a) For the first occurrence, \$2,000.

(b) For the second or a subsequent occurrence, \$4,000.

3. Each instance in which an owner or operator allows a person who is less than 18 years of age to use the tanning equipment of the tanning establishment without identifying and obtaining the consent of a parent or guardian of the person in the manner prescribed by subsection 1 of section 5 of this act constitutes a separate occurrence.

4. The owner or operator of a tanning establishment who, in good faith, complies with the requirements of subsection 1 of section 5 of this act is not liable in an action brought pursuant to this section.

Sec. 7. This act becomes effective on July 1, 2011.

Senator Halseth moved the adoption of the amendment.

Remarks by Senators Halseth, Lee and Copening.

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

SENATOR HALSETH:

Amendment No. 301 to Senate Bill No. 291 imposes certain requirements on an operator of a tanning establishment before the operator may allow a person under the age of 18 to use tanning equipment.

A parent or guardian must physically appear at the tanning establishment and produce suitable identification. The parent or guardian must also sign a written consent verifying that the person signing is the parent or guardian of the minor and expressly authorizing the minor to use tanning equipment at the establishment.

An operator who does not identify a parent or guardian is subject to a civil action with specified damages, in addition to costs and attorney's fees.

An owner or operator who complies in good faith with the identification and consent provisions of the bill is not liable in a civil action.

SENATOR LEE:

Is the \$2,000 fine for the first occurrence a mandatory fine or can it be waived?

SENATOR HALSETH:

I would like to refer all questions regarding this bill to my colleague from Senate District No. 6.

SENATOR COPENING:

If that is a concern to you, I have no problem putting that language in there. It allows a parent to take a civil action against a tanning facility. If they did not want to take a civil action against the facility, they would not have to. It is their choice. If the court wanted to waive the judgment, they could do it.

SENATOR LEE:

Thank you, I appreciate it.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 292.

Bill read second time.

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

Amendment No. 272.

"SUMMARY—Revises provisions relating to insurance. (BDR 57-1074)"

"AN ACT relating to insurance; providing for the licensure and regulation of persons who sell or offer coverage under a policy of portable electronics insurance; providing a fee; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person is not authorized to engage in the business of transacting insurance unless the person is issued a license by the Commissioner of Insurance. **Sections 2-15** of this bill provide for the licensure and regulation of persons **, including certain persons who are not residents of this State,** who sell or offer coverage under a new limited line

of insurance, the coverage of portable electronics against the risk of loss, which provides coverage for the repair or replacement of portable electronics and which may cover portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, accidental damage or other similar perils in accordance with the terms of the policy. A vendor who sells or offers coverage under a policy of portable electronics insurance must be licensed as a producer of insurance and pay certain fees. (NRS 680B.010, 680C.110) Existing law provides that a violation of certain provisions of the Nevada Insurance Code, including **sections 2-17** of this bill, is a misdemeanor.

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~["Covered customer" means a customer who elects coverage under a policy of portable electronics insurance issued to a vendor.]~~
(Deleted by amendment.)

Sec. 4. *"Customer" means a person who acquires, by lease or purchase, portable electronics or services related to the use of portable electronics from a vendor.*

Sec. 4.3. *"Enrolled customer" means a customer who elects coverage under a policy of portable electronics insurance issued to a vendor.*

Sec. 4.5. *"Location" means any physical site within this State or any Internet website, call center or other similar site where a vendor transacts business with residents of this State.*

Sec. 5. *"Maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance.*

Sec. 6. *"Portable electronics" means electronic devices that are portable in nature and their accessories.*

Sec. 7. 1. *"Portable electronics insurance" means insurance which provides coverage for the repair or replacement of portable electronics and which may cover portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, accidental damage or other similar perils in accordance with the terms of the policy.*

2. *The term does not include:*

- (a) A service contract governed by chapter 690C of NRS;*
- (b) A maintenance agreement;*
- (c) A warranty;*
- (d) A policy of homeowners' insurance, renter's insurance or motor vehicle insurance; or*

(e) A policy of property or casualty insurance for business and commercial risks.

Sec. 7.5. "Supervising entity" means a business or entity that is a licensed insurer or producer of insurance.

Sec. 8. "Vendor" means a person who, directly or indirectly, engages in the business of:

1. The sale or lease of portable electronics by the vendor to a customer; or

2. The sale of a service related to the use of portable electronics by the vendor to a customer.

Sec. 9. "Warranty" means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:

- 1. Is not negotiated or separated from the sale of the goods;*
- 2. Is incidental to the sale of the goods; and*
- 3. Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.*

Sec. 10. 1. A vendor shall not sell or offer coverage under a policy of portable electronics insurance unless the vendor holds a license as a producer of insurance in portable electronics insurance as a limited line issued by the Commissioner pursuant to NRS 683A.261 or 683A.271.

2. In addition to the information required pursuant to NRS 683A.251, an application for a license as a producer of insurance in portable electronics insurance must include:

(a) A schedule which identifies each location at which the vendor does business; and

(b) ~~If the vendor derives more than 50 percent of its revenue from the sale of portable electronics coverage, the name, residence address and other information required by the Commissioner for each officer, director and shareholder of record having beneficial ownership of 10 percent or more of any class of securities of the vendor registered under federal securities law; and~~

~~(c) The location of the vendor's home office.]~~ The physical address of the home office of the vendor.

3. ~~If the Commissioner issues to a vendor a license as a producer of insurance in portable electronics insurance, the vendor must, not less often than quarterly, submit a schedule which identifies each location at which the vendor does business.]~~ A natural person who is designated by a vendor pursuant to paragraph (b) of subsection 2 of NRS 683A.251 is not required to be a principal, officer or employee of the vendor.

Sec. 10.5. The Commissioner may issue or renew a license as a producer of insurance in portable electronics insurance as a limited line pursuant to NRS 683A.261 or 683A.271 to an applicant who is not a resident of Nevada, including, without limitation, a resident of Canada:

1. Before July 1, 2014, if:

(a) The jurisdiction in which the applicant resides or in which the applicant maintains his or her principal place of business does not provide for the issuance of a license as a producer of insurance in portable electronics insurance as a limited line; and

(b) The applicant meets all other requirements for licensure.

2. On or after July 1, 2014, if:

(a) The jurisdiction in which the applicant resides or in which the applicant maintains his or her principal place of business does not provide for the issuance of a license as a producer of insurance in portable electronics as a limited line;

(b) The applicant is issued a license as a producer of insurance for property and casualty insurance in this State pursuant to NRS 683A.261; and

(c) The applicant meets all other requirements for licensure.

Sec. 11. 1. Notwithstanding any other provision of law, an employee or authorized representative of a vendor that holds a license as a producer of insurance in portable electronics insurance issued by the Commissioner pursuant to NRS 683A.261 or 683A.271 may, without a license issued by the Commissioner, sell or offer coverage under a policy of portable electronics insurance at any location at which the vendor does business if:

(a) The employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance only on behalf of, and under the supervision of, the vendor; and

(b) Before the employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance, he or she completes a program of training provided by the vendor pursuant to section 12 of this act.

2. An employee or authorized representative of a vendor who sells or offers coverage under a policy of portable electronics insurance pursuant to this section shall not advertise, represent or otherwise hold himself or herself out as a licensed producer of insurance ~~for engage in any other conduct for which a license or certificate is required pursuant to this title.] unless the person is licensed as a producer of insurance.~~

Sec. 12. 1. An authorized insurer may deliver or issue for delivery in this State a policy of portable electronics insurance as a group or master inland marine policy issued to a vendor. A vendor may provide coverage for portable electronics under the policy to customers who elect to enroll under the policy. The policy may be offered on a month-to-month or other periodic basis. Notwithstanding the provisions of any law to the contrary, each rate for a policy of portable electronics insurance must be filed with the Commissioner pursuant to chapter 686B of NRS.

2. An insurer that issues a group policy of portable electronics insurance to a vendor shall:

(a) *Establish reasonable eligibility and underwriting standards for customers who elect to enroll under the vendor's policy of portable electronics insurance.*

(b) *Appoint a ~~business entity that is licensed as a producer of insurance to act as a~~ supervising ~~agency~~ entity to oversee the vendor's sales ~~for~~ and enrollment ~~and claims administration~~ activities under the vendor's policy of portable electronics insurance.*

3. *A supervising ~~agency~~ entity appointed pursuant to this section must develop and conduct a training program for the employees and authorized representatives of the vendor who sell or offer coverage under the vendor's policy of portable electronics insurance. The training program must include, without limitation, basic instruction concerning:*

(a) *The coverage that is available to customers who enroll under the vendor's policy of portable electronics insurance; and*

(b) *The disclosures required by section 13 of this act.*

4. *The supervising ~~agency~~ entity may provide the basic instruction required by subsection 3 in electronic form if the supervising ~~agency~~ entity provides supplemental training that is conducted and overseen in person by a licensed employee of the supervising ~~agency~~ entity.*

5. *The supervising ~~agency~~ entity shall ensure that each employee and authorized representative of a vendor completes the training program required by subsection 3 before selling or offering to sell coverage under the vendor's policy of portable electronics insurance.*

Sec. 13. 1. *A vendor shall make available to a prospective customer, at each location where the vendor sells or offers coverage under a policy of portable electronics insurance, a printed brochure or other written material concerning the coverage available under the policy of portable electronics insurance. The written material must:*

(a) *Disclose that coverage under a policy of portable electronics insurance may duplicate coverage already provided to the customer by a policy of property insurance or other source of coverage;*

(b) *State that the customer is not required to enroll for coverage under the vendor's policy of portable electronics insurance as a condition of the purchase or lease of any portable electronics or related services;*

(c) *Summarize the material terms of the coverage provided under the policy of portable electronics insurance, including:*

(1) *The identity of the insurer;*

(2) *The identity of the supervising ~~agency~~ entity;*

(3) *The amount of any applicable deductible and how it is to be paid;*

(4) *Benefits of the coverage; and*

(5) *Key terms and conditions of the coverage, including, without limitation, whether portable electronics may be repaired or replaced with a similar make and model that has been reconditioned or with nonoriginal manufacturer parts or equipment;*

(d) Summarize the process for filing a claim, including a description of ~~any requirement.~~

~~(1) To~~ how return portable electronics and the maximum fee applicable if the enrolled customer fails to comply with any equipment return requirements; and

~~f (2) Relating to proof of loss; and~~

(e) State that the enrolled customer may cancel his or her enrollment for coverage under the policy of portable electronics insurance at any time and, in the event of such cancellation, the person paying the premium for the coverage will receive a refund of any applicable unearned premium.

2. If a customer elects to enroll in coverage under a policy of portable electronics insurance, the printed brochure or other written material may serve as a certificate of coverage if the material satisfies the requirements of subsection 1. ~~and includes a physical or electronic address at which the covered customer may obtain a copy of the group policy of portable electronics insurance.~~ A policy of portable electronics insurance, including the certificate of coverage of the policy, must be filed with the Commissioner not later than 15 days after the effective date of the policy.

Sec. 14. 1. If a customer purchases a policy of portable electronics insurance from a vendor or elects to enroll in coverage under the vendor's policy of portable electronics insurance, the vendor may bill and collect the charges for the portable electronics insurance coverage.

2. Any charge to the customer for portable electronics insurance coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services must be separately itemized on the customer's ~~invoice.~~ bill.

3. If portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor must clearly and conspicuously disclose to the customer that the ~~cost of the~~ portable electronics insurance coverage is included ~~in the price~~ with the purchase of the portable electronics or related services.

4. A vendor which bills and collects charges for portable electronics insurance coverage on behalf of an insurer is not required to maintain such money in a segregated account if the vendor:

(a) Is authorized by the insurer to hold such money in an alternative manner; and

(b) Remits such amounts to the supervising ~~agency~~ entity within 60 days after receipt.

➤ All money collected by a vendor from ~~an~~ an enrolled customer for the sale of portable electronics insurance shall be deemed to be held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor is entitled to receive compensation for billing and collection services.

Sec. 15. Notwithstanding any other provision of law:

1. Except as otherwise provided in this section, an insurer that issues a policy of portable electronics insurance may ~~cancel~~ not terminate the

policy before the expiration of the agreed term of the policy ~~for otherwise change any term or condition of the policy if,~~ unless, not less than 30 days before the effective date of the ~~feancellation or changed term or condition,~~ termination, the insurer provides notice to:

(a) The holder of the policy of portable electronics insurance; and

(b) If the policy is a group policy issued to a vendor under which individual customers may elect to enroll for coverage, each ~~fecovered~~ enrolled customer.

2. An insurer shall not change any term or condition of a policy of portable electronics insurance more than once in any 6-month period. If the insurer changes a term or condition of a policy of portable electronics insurance , ~~fpursuant to subsection 1,~~ the insurer shall , not less than 30 days before the effective date of the change, provide:

(a) The policyholder with a revised policy or endorsement; and

(b) Each ~~fecovered~~ enrolled customer with a revised certificate of coverage, endorsement, brochure or other evidence of coverage which:

(1) Declares that the insurer has changed a term or condition of the policy which may affect the enrolled customer's coverage; and

(2) Provides a summary of the material changes.

3. An insurer may terminate ~~fa-covered~~ an enrolled customer's coverage under a vendor's policy of portable electronics insurance upon the discovery of fraud or material misrepresentation by the ~~fecovered~~ enrolled customer in obtaining the coverage or in presenting a claim thereunder if the insurer provides notice of the termination to the vendor and the ~~fecovered~~ enrolled customer within 15 days after discovery of the fraud or material misrepresentation.

4. An insurer may terminate an enrolled customer's coverage under a vendor's policy of portable electronics insurance if the enrolled customer fails to pay a premium and the insurer gives the enrolled customer not less than 10 days' notice of his or her failure to pay the premium.

5. An insurer may immediately terminate ~~fa-covered~~ an enrolled customer's coverage under a vendor's policy of portable electronics insurance:

(a) ~~ffor the covered customer's failure to pay a premium when due;~~

~~(b)~~ If the ~~fecovered~~ enrolled customer ceases to have an active service with the vendor; or

~~(c)~~ (b) If the ~~fecovered~~ enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the policy of portable electronics insurance and the insurer provides notice of termination to the customer within 30 calendar days after exhaustion of the limit. If the insurer fails to provide timely notice as required by this paragraph, the ~~fecovered~~ enrolled customer's coverage under the policy continues until the insurer provides notice of termination to the ~~fecovered~~ enrolled customer notwithstanding the exhaustion of the aggregate limit of liability.

~~[5.]~~ 6. A vendor or other holder of a group policy of portable electronics insurance shall not terminate ~~for a covered~~ an enrolled customer's coverage under the policy unless, not less than 30 days before the effective date of the termination, the ~~holder~~ insurer provides notice to the ~~covered~~ enrolled customer of the termination of the policy and the effective date of termination. An insurer may authorize a vendor to provide notice to an enrolled customer on behalf of the insurer pursuant to this subsection.

~~[6.]~~ 7. Any notice that is required pursuant to this section must be in writing and be:

(a) Mailed or delivered to the ~~covered~~ enrolled customer, vendor or other policyholder at his or her last known address; or

(b) Sent by electronic mail or other electronic means in accordance with regulations adopted by the Commissioner to the ~~covered~~ enrolled customer, vendor or other policyholder at the electronic mail address of the ~~covered~~ enrolled customer, vendor or other policyholder last known by the insurer.

↗ An insurer or vendor who provides notice pursuant to this subsection must maintain proof of mailing or delivery in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service or an electronic record or other proof that the notice was sent.

Sec. 16. If a vendor or an employee or authorized representative of a vendor violates any provision of this chapter or an order or regulation of the Commissioner issued or adopted pursuant thereto, the Commissioner may, after notice and an opportunity for a hearing:

1. Impose an administrative fine ~~for not more than \$500~~ pursuant to NRS 683A.461 for each violation ~~for \$5,000~~, which must not exceed \$50,000 in the aggregate; ~~for such conduct.~~

2. Suspend a vendor's privilege of engaging in the sale or offering of coverage under a policy of portable electronics insurance at a particular location where the vendor does business;

3. Suspend or revoke the privilege of an employee or authorized representative of a vendor to sell or offer coverage under a policy of portable electronics insurance; or

4. Suspend or revoke the license issued by the Commissioner to the vendor as a licensed producer of insurance.

Sec. 17. The Commissioner may adopt such regulations as necessary to carry out the provisions of this chapter.

Sec. 18. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a

license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

(l) ***Portable electronics as a limited line.***

(m) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than \$15 or deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required

pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where the resident producer of insurance principally conducts transactions under his or her license. The place of business may be in his or her residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which the licensee conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which the licensee conducts business as a producer of insurance or his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 19. NRS 683A.291 is hereby amended to read as follows:

683A.291 1. An applicant for licensing in this state as a producer of insurance who was previously licensed for the same lines of authority in another state need not complete any education or examination if the applicant is currently licensed in that state or, if the application is received within 90 days after the cancellation of the license, the other state certifies that the applicant was in good standing at the time of cancellation. Alternatively, the

exemption is available if the records of the National Association of Insurance Commissioners show that the applicant is or was licensed and in good standing for the lines of authority requested.

2. An examination is not required for a producer of insurance who confines his or her activity to insurance categorized as limited line, credit, travel, *portable electronics*, baggage or fixed annuity, or covering vehicles leased for a short term.

3. A person licensed in another state who moves to this state and desires to become licensed as a resident producer of insurance with the benefit of the exemption provided in subsection 1 must apply for licensing within 90 days after establishing legal residence.

Sec. 20. Notwithstanding the provisions of sections 2 to 17, inclusive, of this act, a vendor is not required to be licensed as a producer of insurance limited to portable electronics insurance to sell or offer coverage under a policy of portable electronics insurance until 90 days after the Commissioner of Insurance makes available an application for such a license or October 1, 2011, whichever is later.

Sec. 21. This act becomes effective:

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

2. On October 1, 2011, for all other purposes.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 272 to Senate Bill No. 292 adds some definitions to the bill. It provides for licensure of a producer of insurance in portable electronics insurance who is not a resident of Nevada, including a resident of Canada.

It authorizes a policy of portable electronics insurance to be issued as a master inland marine policy. Each rate for a policy of electronics insurance must be filed with the Commissioner of Insurance.

It imposes limitations on cancellation or modification of a policy of portable electronic insurance.

Finally, the amendment increases the maximum aggregate potential administrative fine for violations of the provisions of the bill to \$50,000.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 313.

Bill read second time.

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

Amendment No. 302.

"SUMMARY—Revises certain provisions relating to energy. (BDR 58-236)"

"AN ACT relating to energy; requiring the Nevada Energy Commissioner to prescribe minimum standards of energy efficiency for certain electrical devices; authorizing the Commissioner to charge and collect a fee from manufacturers of certain electrical devices for the costs of any tests to confirm that such electrical devices comply with the minimum standards of energy efficiency prescribed by the Commissioner; authorizing the Commissioner to impose administrative fines; requiring the Public Utilities Commission of Nevada, in evaluating a 3-year plan submitted by an electric utility, to give preference to certain measures and sources of electricity; ~~requiring an electric utility to include in its 3-year plan at least one scenario of supply and demand which maximizes the achievable net benefits from energy efficiency and conservation measures and programs; requiring the Commission to adopt regulations which include the opportunity for an electric utility to earn a return on investment from the implementation of energy efficiency and conservation programs equal to the return on investment earned by the utility from investment in alternative supply-side resources;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Nevada Energy Commissioner to prepare a comprehensive state energy plan which includes the promotion of the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy. (NRS 701.190) Existing law also requires the Commissioner to adopt regulations for the conservation of energy in buildings and to adopt regulations establishing a minimum standard of energy efficiency for general purposes lights. (NRS 701.220, 701.260) **Section 1** of this bill requires the Commissioner to adopt regulations prescribing a minimum standard of energy efficiency for portable light fixtures and televisions and authorizes the Commissioner to prescribe a minimum standard of energy efficiency for any other electrical devices. In addition, **section 1** requires the Commissioner to adopt regulations establishing the procedures by which a manufacturer of an electrical device is required to: (1) demonstrate that the electrical device complies with the minimum standard of energy efficiency; (2) identify that the device complies with the minimum standard of energy efficiency; and (3) make available to the Commissioner samples of the device for the purpose of conducting tests to confirm that the device complies with the minimum standard of energy efficiency. **Section 1** authorizes the Commissioner to charge and collect a fee from the manufacturer of an electrical device for the cost of conducting tests to confirm that the device complies with the minimum standard of energy efficiency. **Section 1** also authorizes the Commissioner to impose an administrative fine on any manufacturer of an electrical device who does not comply with **section 1** or the regulations adopted pursuant thereto. Finally, **section 1** requires the Commissioner to make available to the public information concerning the minimum standards of energy efficiency prescribed by the Commissioner. **Section 5** of this bill requires the

Commissioner to adopt the regulations prescribing the minimum standards of energy efficiency on or before October 1, 2012.

~~{Section 2 of this bill requires an electric utility to include as part of its 3-year plan submitted to the Public Utilities Commission of Nevada a comparison of scenarios of the best combinations of supply to meet demands or the best methods to reduce demands, at least one of which must be a scenario in which the achievable net benefits from energy efficiency and energy conservation measures and programs are maximized.} Section 3 of this bill requires, rather than authorizes, the Commission, in evaluating the adequacy of a 3-year plan submitted by an electric utility, to give preference to those energy efficiency measures, purchasing decisions and sources of energy identified in the plan which provide the greatest economic and environmental benefits to the State and which provide levels of service that are adequate and reliable. {Section 4 of this bill requires that the regulations adopted by the Commission relating to energy efficiency and conservation programs include an opportunity for the electric utility to earn a return on investment from the implementation of such programs that is equal to the return on investment the electric utility could otherwise earn from investing in alternative supply-side resources. Section 4 provides that the return on investment which may be earned by the electric utility must be based upon the performance of the energy efficiency and conservation programs.}~~

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 7, the Commissioner:
(a) Shall adopt regulations prescribing a minimum standard of energy efficiency for:*

- (1) Portable light fixtures; and*
- (2) Televisions.*

(b) May adopt regulations prescribing a minimum standard of energy efficiency for any electrical device other than the electrical devices set forth in paragraph (a).

2. In adopting regulations pursuant to subsection 1, the Commissioner shall prescribe the minimum standard of energy efficiency for an electrical device based upon a determination that the standard of energy efficiency will serve to promote energy conservation in this State and will be cost-effective for consumers who purchase and use such electrical devices.

3. A regulation adopted pursuant to subsection 1 which establishes or amends a minimum standard of energy efficiency for an electrical device must not become effective until 1 year after the date on which the regulation is adopted.

4. The Commissioner shall adopt regulations establishing the procedures by which a manufacturer of an electrical device for which the

Commissioner has prescribed a minimum standard of energy efficiency pursuant to subsection 1 shall:

(a) Demonstrate that the electrical device complies with the minimum standard of energy efficiency prescribed by the Commissioner;

(b) Identify conspicuously on the electrical device and on any packaging for the electrical device that the device complies with the minimum standard of energy efficiency prescribed by the Commissioner; and

(c) Make available to the Commissioner samples of the electrical device for the purpose of conducting tests to confirm that the device complies with the minimum standard of energy efficiency prescribed by the Commissioner.

5. The Commissioner may:

(a) Charge and collect a fee from the manufacturer of an electrical device for the cost of any test conducted by the Commissioner in accordance with the regulations adopted pursuant to paragraph (c) of subsection 4; and

(b) Impose an administrative fine on any manufacturer of an electrical device who does not comply with the provisions of this section or any regulation adopted pursuant thereto.

6. The Commissioner shall make available to the public, free of charge, information concerning the minimum standards of energy efficiency for electrical devices prescribed by the Commissioner pursuant to this section and shall publish the information on the Internet website of the Commissioner.

7. The regulations adopted pursuant to this section do not apply to:

(a) New electrical devices manufactured in this State and sold outside of this State;

(b) New electrical devices manufactured outside of this State and sold at wholesale in this State for final retail sale and use outside of this State; or

(c) New electrical devices designed expressly for installation and use in a recreational vehicle as that term is defined in NRS 482.101.

8. As used in this section, "portable light fixture" means a movable electric light fixture that uses a plug-in power cord.

Sec. 2. [NRS 704.741 is hereby amended to read as follows:]

~~704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.~~

~~2. The Commission shall, by regulation:~~

~~(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility to:~~

~~(1) Forecast the future demands; and~~

~~(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and~~

~~(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.~~

~~3. The Commission shall require the utility to include in its plan:~~

~~(a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources; and~~

~~(b) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include [at]:~~

~~(1) At least one scenario of low carbon intensity [.] and~~

~~(2) At least one scenario that maximizes the achievable net benefits from energy efficiency and energy conservation measures and programs.~~

~~4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.~~

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

~~(a) "Carbon intensity" means the amount of carbon by weight emitted per unit of energy consumed.~~

~~(b) "Renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers. (Deleted by amendment.)~~

Sec. 3. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. The Commission shall determine the parties to the public hearing on the adequacy of the plan. A person or governmental entity may petition the Commission for leave to intervene as a party. The Commission must grant a petition to intervene as a party in the hearing if the person or entity has relevant material evidence to provide concerning the adequacy of the plan. The Commission may limit participation of an intervener in the hearing to avoid duplication and may prohibit continued participation in the hearing by an intervener if the Commission determines that continued participation will unduly broaden the issues, will not provide additional relevant material evidence or is not necessary to further the public interest.

3. In addition to any party to the hearing, any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

4. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to

improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

- (1) Improvements in energy efficiency;
- (2) Pooling of power;
- (3) Purchases of power from neighboring states or countries;
- (4) Facilities that operate on solar or geothermal energy or wind;
- (5) Facilities that operate on the principle of cogeneration or hydrogeneration;
- (6) Other generation facilities; and
- (7) Other transmission facilities.

5. The Commission ~~{may}~~ **shall** give preference to the measures and sources of supply set forth in paragraph (c) of subsection 4 that:

- (a) Provide the greatest economic and environmental benefits to the State;
- (b) Are consistent with the provisions of this section; and
- (c) Provide levels of service that are adequate and reliable.

6. The Commission shall:

- (a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and
- (b) Consider the value to the public of using water efficiently when it is determining those preferences.

7. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments, including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

Sec. 4. ~~{NRS 704.785 is hereby amended to read as follows:~~

~~704.785 1. The Commission shall adopt regulations authorizing an electric utility to recover an amount based on the measurable and verifiable effects of the implementation by the electric utility of energy efficiency and conservation programs approved by the Commission, which:~~

~~(a) Must ~~must~~ include:~~

~~{(1)} (a) The costs reasonably incurred by the electric utility in implementing and administering the energy efficiency and conservation programs; and~~

~~{(2)} (b) Any financial disincentives relating to other supply alternatives caused or created by the reasonable implementation of the energy efficiency and conservation programs; and~~

~~{(b) May include any financial incentives to support the promotion of the participation of the customers of}~~

~~(c) An opportunity for the electric utility [in the] to earn a return on investment from the implementation of energy efficiency and conservation programs that is equal to the return on investment the electric utility could otherwise earn from investing in alternative supply-side resources. The return on investment which may be earned by the electric utility pursuant to this paragraph must be based upon the performance of the energy efficiency and conservation programs.~~

~~2. When considering whether to approve an energy efficiency or conservation program proposed by an electric utility as part of a plan filed pursuant to NRS 704.741, the Commission shall consider the effect of any recovery by the electric utility pursuant to this section on the rates of the customers of the electric utility.~~

~~3. The regulations adopted pursuant to this section must not:~~

~~(a) Affect the electric utility's incentives and allowed returns in areas not affected by the implementation of energy efficiency and conservation programs; or~~

~~(b) Authorize the electric utility to earn more than the rate of return authorized by the Commission in the most recently completed rate case of the electric utility.~~

~~4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.1 (Deleted by amendment.)~~

Sec. 5. The Nevada Energy Commissioner shall adopt the regulations required by section 1 of this act on or before October 1, 2012.

Sec. 6. 1. This section and sections 1 and 5 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

2. Sections 2, 3 and 4 of this act become effective on January 1, 2012.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 302 to Senate Bill No. 313 deletes the provision requiring a utility to include in its triennial plan filed with the Public Utilities Commission of Nevada at least one scenario in which the net benefits of a combination of energy efficiency and energy conservation are maximized.

It also deletes the provision that allows a utility an opportunity to earn a return on investment from energy efficiency and conservation programs that is equal to the return on investment earned from alternative supply side measures.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 314.

Bill read second time.

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

Amendment No. 273.

"SUMMARY—Revises various provisions relating to ~~residential~~ **real** property. (BDR 54-631)"

"AN ACT relating to ~~residential~~ **real** property; providing for the registration and regulation of asset management companies; providing for the permitting and regulation of employees and independent contractors of asset management companies; prohibiting a purchaser of residential property from voluntarily waiving or being required to waive his or her right to a disclosure form; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensure or registration and regulation of various professions in this State. (Title 54 of NRS) This bill provides for the registration, permitting and regulation of asset management companies and their employees and agents by the Real Estate Division of the Department of Business and Industry. Asset management companies provide management services for real property which is in foreclosure and which is owned by a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof or a governmental entity. Such companies manage the property, performing services such as securing the property by changing locks, removing trash and debris, cleaning the home and surrounding property, performing maintenance and repairs of homes and disposing of the personal property of homeowners left in homes which are in foreclosure and which the legal owner has deemed abandoned.

Section 23 of this bill sets forth the requirements an asset management company must meet to be registered in this State, including criminal background checks on all principals, partners, directors and officers of the company. **Section 24** of this bill requires asset management companies to carry sufficient insurance to cover any damage to ~~a home,~~ **real property**, any wrongful evictions ~~of homeowners,~~ or any wrongful disposal of the personal property of a homeowner. ~~Section 28 of this bill imposes a \$2,000 application fee for registration as an asset management company, as well as a \$500 fee for the issuance of a certificate of registration and an annual fee of \$500 to renew the certificate of registration.~~ **or a tenant of a homeowner.** **Section 29** of this bill requires all employees or independent contractors of an asset management company to obtain a permit from the Division ~~to~~ **and** undergo a criminal background check ~~and pay a one-time fee of \$75.~~ **at the expense of the employee or independent contractor.**

Section 31 of this bill specifies the services an asset management company may provide and the steps an asset management company must take before it may dispose of the personal property of a homeowner ~~to~~ **or a tenant of a homeowner,** including storage of the property for 30 days in a secure location and notifying the homeowner **or the tenant** in writing of the disposal and where the property may be reclaimed. **Section 32** of this bill makes it a misdemeanor for a person to operate an asset management company in this State without being registered with the Division or for an

employee or independent contractor of an asset management company to engage in asset management without a permit issued by the Division. **Section 33** of this bill makes it a misdemeanor for an asset management company or its agents to: (1) evict a ~~homeowner~~ **real property owner** without a court order while the ~~homeowner~~ **real property owner** still has time to redeem his or her ~~house~~ **real property**; (2) dispose of any personal property of a homeowner **or a tenant of a homeowner** except as provided in **section 31**; (3) seize ~~a residence~~ **real property** that is not in foreclosure; (4) allow any work to be done ~~in a residence~~ **on real property** by a person who is not licensed to do that type of work or allow any work to be done ~~in a residence~~ **on real property** which requires a permit or an inspection unless the permit is obtained or inspection completed; (5) conduct any activities for which a real estate license is required without such a license; or (6) fail to provide the real property disclosure to any purchaser of a residence for which the asset management company has provided services.

Existing law requires a seller to complete and serve a purchaser of residential property with a disclosure form regarding the property, but allows a purchaser to waive his or her right to receive such a form. (NRS 113.130) **Section 34** of this bill prohibits a purchaser from waiving, or a seller from requiring a purchaser to waive, the purchaser's right to the disclosure form.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Administrator" means the Real Estate Administrator.*

Sec. 4. *"Asset management" means to oversee or maintain any real property, including, without limitation, any actions taken to preserve, restore or improve the value and to lessen the risk of damage to the property before a foreclosure sale.*

Sec. 5. *"Asset management company" means a person, limited-liability company, partnership, association or corporation which, for compensation and pursuant to a contractual agreement, power of attorney or other legal authorization, provides services in the maintenance, repair and preparation for liquidation of real property that is owned or secured by a mortgage or lien on the property for an obligation owned by or on behalf of:*

1. A bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary of such which is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or

3. A federal, state or local governmental entity.

Sec. 6. "Client" means a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary of such or governmental entity for whom an asset management company provides asset management.

Sec. 7. "Division" means the Real Estate Division of the Department of Business and Industry.

Sec. 8. "Foreclosure sale" means a sale of real property to enforce an obligation secured by a mortgage or lien on the property, including, without limitation, the exercise of a trustee's power of sale pursuant to NRS 107.080.

Sec. 9. "Homeowner" means the owner of record of a residence, including, without limitation, the owner of record of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.

Sec. 10. "Mortgage banker" has the meaning ascribed to it in NRS 645E.100.

Sec. 11. "Mortgage broker" has the meaning ascribed to it in NRS 645B.0127.

Sec. 11.3. "Real property in foreclosure" includes, without limitation, a residence in foreclosure or commercial real property against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080

Sec. 11.7. "Real property owner" means the owner of record of real property, including, without limitation, a homeowner or an owner of real property in foreclosure.

Sec. 12. "Residence in foreclosure" means any residential real property consisting of ~~four~~ one ~~;~~ :

1. Not more than four family dwelling units, one of which the homeowner or a tenant of the homeowner occupies as his or her principal place of residence ~~and~~ ; or

2. A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units,

against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080.

Sec. 13. The provisions of this chapter do not apply to:

1. A person who is a regular, full-time employee of a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary thereof.

2. *A person who takes possession of property from a defendant in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.*

Sec. 14. 1. *The Division shall administer the provisions of this chapter and may employ legal counsel, investigators and other professional consultants necessary to discharge its duties pursuant to this chapter.*

2. *An employee of the Division must not be employed by or have an interest in any business that manages residences in foreclosure or other assets.*

3. *An employee of the Division shall not act as an asset manager or as an agent for an asset management company.*

Sec. 15. *The Division shall adopt:*

1. *Regulations prescribing a standard of practice and code of ethics for registered asset management companies. The regulations must include, without limitation, provisions establishing the degree of care that must be exercised by a reasonably prudent registered asset management company.*

2. *Such other regulations as are necessary for the administration of this chapter.*

Sec. 16. 1. *The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. ~~The regulations may include, without limitation, provisions establishing fees to pay the costs of conducting business electronically with the Division.~~*

2. *In addition to the provisions of NRS 719.280, if the Division conducts business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 to satisfy the legal requirement.*

3. *The Division may refuse to conduct business electronically with a person who has failed to pay any money which the person owes to the Division.*

Sec. 17. 1. *In addition to any other remedy or penalty, the Division may impose an administrative fine against any person who knowingly:*

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

(b) *Assists or offers to assist another person in the commission of a violation described in paragraph (a).*

2. *If the Division imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine must not*

exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever is greater.

3. In determining the appropriate amount of the administrative fine, the Division 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 Division deems to be relevant.

4. Before the Division may impose the administrative fine, the Division 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 Division 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 provisions 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. 18. 1. The Division shall maintain a record of:

(a) Persons whose applications for registration have been denied;

(b) Formal disciplinary proceedings and any investigations conducted by the Division which result in the initiation of those proceedings; and

(c) Rulings or decisions upon complaints filed with the Division.

2. Except as otherwise provided in this section and section 19 of this act, records kept in the office of the Division pursuant to this chapter are open to the public for inspection pursuant to regulations adopted by the Division. Except as otherwise provided in NRS 239.0115, the Division may keep confidential, unless otherwise ordered by a court any criminal and financial records of an asset management company or applicant for a certificate of registration.

Sec. 19. 1. Except as otherwise provided in this section and section 18 of this act, a complaint filed with the Division, all documents and other information filed with the Division relating to the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement entity, that is investigating a person who holds a certificate of registration or permit issued pursuant to this chapter.

2. *The complaint or other document filed by the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.*

Sec. 20. 1. *All ~~fees and~~ administrative fines received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.*

2. *Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.*

Sec. 21. 1. *The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division.*

2. *The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter.*

Sec. 22. *If the Division imposes an administrative fine, ~~for collects a fee for registering an asset management company or issuing or renewing a permit to engage in asset management,~~ the Division shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Division 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. 23. 1. *A person who wishes to be registered as an asset 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 28 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 asset management company will conduct business within this State;*

(b) *State the name under which the applicant will conduct business as an asset 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 asset management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person; and*

(d) *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 asset 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 this chapter the Division shall issue a certificate of registration to an applicant as an asset management company if:*

(a) The application is verified by the Division and complies with the requirements of this chapter.

(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 or she has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an asset 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 asset management or any crime involving fraud, misrepresentation or moral turpitude.

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

(4) Has not had a professional license that was issued in this State or 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 application.

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

(c) The applicant certifies that he or she:

(1) Has a process in place to verify that each employee or independent contractor that provides services to the asset management company is the holder of a license in good standing in this State to perform the services for which the asset management company will use the independent contractor.

(2) Has a process in place to review the work of each independent contractor that provides services to the asset management company to ensure that those services are conducted in accordance with all applicable laws and regulations of this State.

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

(d) The applicant submits proof that he or she possesses all business licenses and permits required to do business in this State.

Sec. 24. 1. *Before issuing any certificate of registration or annual renewal thereof, the Division shall require satisfactory proof that the asset management company:*

(a) Is covered by a policy of insurance written by an insurance company authorized to do business in this State which is sufficient to reimburse ~~homeowners~~ real property owners for, without limitation, any damage to ~~a residence~~ real property in foreclosure, the wrongful disposal of property or ~~the~~ wrongful eviction; ~~of a homeowner;~~ or

(b) Possesses and will continue to possess sufficient means to act as a self-insurer against that liability.

2. Every asset management company shall maintain the policy of insurance or self-insurance required by this section. The registration of every such asset management company is automatically suspended 10 days after receipt by the asset management company of a notice from the Division that the required insurance is not in effect, unless satisfactory proof of insurance is provided to the Division within that period.

3. Proof of insurance or self-insurance must be in such a form as the Division may require.

Sec. 25. 1. If an asset management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the asset management company.

2. As used in this section, "qualified employee" means:

(a) A director, officer, member, employee, manager or trustee of a partnership, corporation or limited-liability company designated by the partnership, corporation or limited-liability company to act on the behalf of the partnership, corporation or limited-liability company; or

(b) A person designated by a sole proprietorship who satisfies the requirements set forth in subsection 2 of section 23 of this act.

Sec. 26. 1. In addition to any other requirements set forth in this chapter an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall:

(a) Include the social security number of the applicant in the application submitted to the Division.

(b) 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 certificate of registration or permit; or

(b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter 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 the applicant 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 the applicant 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. 27. A certificate of registration issued pursuant to this chapter expires each year on the date of its issuance, unless it is renewed. To renew the certificate of registration, the registrant must submit to the Division on or before the expiration date:

- 1. An application for renewal; and*
- 2. ~~The fee required to renew the certificate of registration pursuant to section 28 of this act; and~~*
- 3. ~~All information required to complete the renewal.~~*

Sec. 28. ~~1. A person must pay the following fee for the issuance or renewal of a certificate of registration as an asset management company:~~

(a) ~~For the issuance of a certificate of registration, the applicant must pay an application fee of \$2,000 for the principal office and a fee of \$500 for the issuance of the initial registration.~~

(b) ~~For the renewal of a certificate of registration, the applicant must pay a fee of \$500.~~

2. ~~The following fees must be charged by and paid to the Division:~~

~~For each issuance of a duplicate registration or permit \$50~~

~~For each change in the name or location of a business 20~~

~~For each change in the name or business address of a holder of a permit 20~~ (Deleted by amendment.)

Sec. 29. 1. A person in this State who is employed by or is an independent contractor for an asset management company shall apply to the Division for a permit to engage in asset management.

2. An applicant for a permit must:

(a) ~~Include a complete set of the fingerprints of the employee or independent contractor 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;~~

(b) ~~Pay a fee of \$75 for the investigation of the applicant;~~ At his or her own expense:

(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(2) Submit to the Division:

(I) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal

Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(II) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken by a law enforcement agency or other authorized entity and directly forwarded by electronic or other means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; and

~~[(e)]~~ (b) Comply with all other requirements established by the Division for the issuance of a permit.

3. The Division may:

(a) Unless the applicant's fingerprints are forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (a) of subsection 2, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

Sec. 30. 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 certificate of registration or permit, the Division shall deem the certificate of registration or permit 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 certificate of registration or permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a certificate of registration or permit 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 certificate of registration or permit stating that the holder of the certificate of registration or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 31. 1. Subject to the provisions of section 33 of this act, the services an asset management company may provide include, without limitation:

(a) Securing ~~[(a residence)]~~ real property in foreclosure once it has been determined to be abandoned and all notice provisions required by law have been complied with;

(b) *Providing maintenance for ~~the residence~~ real property in foreclosure, including landscape and pool maintenance;*

(c) *Cleaning the interior or exterior of ~~the residence~~ real property in foreclosure;*

(d) *Providing repair or improvements for ~~the residence~~ real property in foreclosure; and*

(e) *Removing trash and debris from ~~the residence~~ real property in foreclosure and the surrounding property.*

2. *An asset management company may dispose of personal property abandoned on the premises of a residence in foreclosure or left on the premises after the eviction of a homeowner or a tenant of a homeowner without incurring civil or criminal liability in the following manner:*

(a) *The asset management company shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the homeowner or the tenant of the homeowner or his or her authorized representative rightfully claiming the property within that period. The asset management company is liable to the homeowner or the tenant of the homeowner only for the asset management company's negligent or wrongful acts in storing the property.*

(b) *After the expiration of the 30-day period, the asset management company may dispose of the property and recover his or her reasonable costs from the property or the value thereof if the asset management company has made reasonable efforts to locate the homeowner ~~or~~ or the tenant of the homeowner, has notified the homeowner or the tenant of the homeowner in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the homeowner ~~or~~ or the tenant of the homeowner. The notice must be mailed to the homeowner or the tenant of the homeowner at the ~~homeowner's~~ present address of the homeowner or the tenant of the homeowner and, if that address is unknown, then at the ~~homeowner's~~ last known address ~~or~~ of the homeowner or the tenant of the homeowner.*

(c) *Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.*

3. *Any dispute relating to the amount of the costs claimed by the asset management company pursuant to paragraph (a) of subsection 2 may be resolved using the procedure provided in subsection 7 of NRS 40.253.*

Sec. 32. 1. *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 asset management company without first obtaining a certificate of registration from the Division pursuant to section 23 of this act.*

2. *It is unlawful for an employee or independent contractor of an asset management company to engage in asset management without first obtaining a permit from the Division pursuant to section 29 of this act.*

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

Sec. 33. 1. *It is unlawful for an asset management company or an employee, director, officer or agent of an asset management company to:*

(a) *Unless the asset management company is acting pursuant to a court order, evict a ~~homeowner~~ real property owner until after the time during which the ~~homeowner~~ real property owner may redeem the ~~residence~~ real property in foreclosure.*

(b) *Dispose of the personal property of a homeowner or a tenant of a homeowner except as provided in section 31 of this act.*

(c) *Seize ~~a home~~ real property for a client which is not ~~a residence~~ real property in foreclosure.*

(d) *Perform any repair, maintenance or renovation on the ~~residence~~ real property in foreclosure:*

(1) *Which is required to be performed by a person holding a license unless such repair, maintenance or renovation is done by a person licensed in this State to perform such repair, maintenance or renovation; or*

(2) *Which requires a permit or inspection by any governmental entity in this State, unless the permit is first obtained and the inspection is performed after completion.*

(e) *Conduct any activity for which a license is required pursuant to chapter 645 of NRS without first obtaining such a license.*

(f) *Fail to provide the disclosure form required pursuant to NRS 113.130 for a purchaser of a residence in foreclosure for which the asset management company or its employee, director, officer or agent has provided asset management.*

2. *A person who violates a provision of this section is guilty of a misdemeanor.*

Sec. 34. NRS 113.130 is hereby amended to read as follows:

113.130 1. Except as otherwise provided in ~~subsections~~ **subsection 2** : ~~and 3;~~

(a) At least 10 days before residential property is conveyed to a purchaser:

(1) The seller shall complete a disclosure form regarding the residential property; and

(2) The seller or the seller's agent shall serve the purchaser or the purchaser's agent with the completed disclosure form.

(b) If, after service of the completed disclosure form but before conveyance of the property to the purchaser, a seller or the seller's agent discovers a new defect in the residential property that was not identified on the completed disclosure form or discovers that a defect identified on the completed disclosure form has become worse than was indicated on the form, the seller or the seller's agent shall inform the purchaser or the purchaser's

agent of that fact, in writing, as soon as practicable after the discovery of that fact but in no event later than the conveyance of the property to the purchaser. If the seller does not agree to repair or replace the defect, the purchaser may:

(1) Rescind the agreement to purchase the property; or

(2) Close escrow and accept the property with the defect as revealed by the seller or the seller's agent without further recourse.

2. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) Which is the first sale of a residence that was constructed by a licensed contractor.

(d) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

3. A purchaser of residential property may *not* waive any of the requirements of subsection 1. ~~[Any such waiver is effective only if it is made in a written document that is signed by the purchaser and notarized.]~~ ***A seller of residential property may not require a purchaser to waive any of the requirements of subsection 1 as a condition of sale or for any other purpose.***

4. If a sale or intended sale of residential property is exempted from the requirements of subsection 1 pursuant to paragraph (a) of subsection 2, the trustee and the beneficiary of the deed of trust shall, not later than at the time of the conveyance of the property to the purchaser of the residential property, provide written notice to the purchaser of any defects in the property of which the trustee or beneficiary, respectively, is aware.

Sec. 35. Section 26 of this act is hereby amended to read as follows:

Sec. 26. 1. In addition to any other requirements set forth in this chapter an applicant for the issuance of a certificate of registration as an asset management company or a permit to engage in asset management shall ~~[-~~

~~(a) Include the social security number of the applicant in the application submitted to the Division.~~

~~(b) Submit]~~ ***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 certificate of registration or permit; or

(b) A separate form prescribed by the Division.

3. A certificate of registration or permit may not be issued or renewed by the Division pursuant to this chapter 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 the applicant 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 the applicant 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. 36. The Real Estate Division of the Department of Business and Industry shall, on or before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 37. 1. This section, sections 1 to ~~33,~~ 34, inclusive, and section 36 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

2. Section 35 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 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 of the support of one or more children,
 ➤ are repealed by the Congress of the United States.

3. Sections 30 and 35 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 273 to Senate Bill No. 314 makes changes to various definitions regarding real property asset management.

It deletes provisions relating to certain fees payable to the Real Estate Division. It substitutes the term "real property" for the term "a residence" throughout the bill.

An applicant for a permit to work for an asset management company must submit fingerprints to the Division.

The amendment authorizes an asset management company to dispose of property left behind by a tenant as part of a foreclosure proceeding.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 328.

Bill read second time.

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

Amendment No. 268.

"SUMMARY—Revises provisions governing the payment and collection of wages and other benefits. (BDR 53-108)"

"AN ACT relating to compensation; exempting creative professionals from requirements relating to compensation for overtime; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires employers to pay an employee compensation for overtime, but exempts certain kinds of employees, including employees who are employed in a bona fide professional capacity. (NRS 608.018)

This bill revises the definition of "professional" to include creative professionals, as described in federal law, who are not employees of a contractor within the kinds of employees who are exempt from the overtime requirement.

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

Section 1. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to ~~an~~ :

1. An employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, 645G and 656A of NRS.

2. A creative professional as described in 29 C.F.R. § 541.302 ~~++~~ who is not an employee of a contractor as that term is defined in NRS 624.020.

Sec. 2. This act becomes effective on July 1, 2011.

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. 268 to Senate Bill No. 328 amends the definition of a "creative professional" to include a person who is not an employee of a contractor, as the term "contractor" is defined in NRS 624.020. This bill makes Nevada statute consistent with the term "creative professional" as described in federal law.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 340.

Bill read second time.

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

Amendment No. 327.

"SUMMARY—Revises provisions relating to programs to increase public awareness of health care information. (BDR 40-663)"

"AN ACT relating to public health; requiring hospitals and surgical centers for ambulatory patients to report certain information relating to physicians who perform surgical procedures; requiring the Department of Health and Human Services to post on an Internet website certain information relating to physicians who perform surgical procedures; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 2 of this bill require hospitals and surgical centers for ambulatory patients to report certain data concerning the names of physicians who perform surgical procedures and other data relating to those surgical procedures to the programs to increase public awareness of health care information. **Section 3** of this bill requires the Department of Health and Human Services to post that information on an Internet website. Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)

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

Section 1. NRS 439A.220 is hereby amended to read as follows:

439A.220 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.230;

(c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and~~

(e) *For each hospital, the name of each physician who performed a surgical procedure in the hospital and the total number of surgical procedures performed by the physician, reported by diagnosis-related group ~~if~~ if the information is available and by principal diagnosis, principal surgical procedure and secondary surgical procedure; and*

(f) Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 2. NRS 439A.240 is hereby amended to read as follows:

439A.240 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the surgical centers for ambulatory patients in this State. The program must be designed to assist consumers with comparing the quality of care provided by the surgical centers for ambulatory patients in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) The charges imposed on outpatients by each surgical center for ambulatory patients in this State as reported in the forms submitted pursuant to NRS 439A.250;

(b) The quality of care provided by each surgical center for ambulatory patients in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.250;

(c) How consistently each surgical center for ambulatory patients follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each surgical center for ambulatory patients, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and~~

(e) *For each surgical center for ambulatory patients, the name of each physician who performed a surgical procedure in the surgical center for ambulatory patients and the total number of surgical procedures performed by the physician, reported by type of medical treatment, principal diagnosis ~~for~~ and, if the information is available, by principal surgical procedure and secondary surgical procedure; and*

(f) Any other information relating to the charges imposed and the quality of the services provided by the surgical centers for ambulatory patients in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

Sec. 3. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the ~~total~~ :

(1) *Total* number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; *and*

(2) *Name of each physician who performed a surgical procedure in the hospital and the total number of surgical procedures performed by each physician in the hospital, reported for the most frequent surgical procedures that the Department determines are most useful for consumers;*

(b) Include, for each surgical center for ambulatory patients in this State, the ~~total~~ :

(1) *Total* number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers; *and*

(2) *Name of each physician who performed a surgical procedure in the surgical center for ambulatory patients and the total number of surgical procedures performed by each physician in the surgical center for ambulatory patients, reported for the most frequent surgical procedures that the Department determines are most useful for consumers;*

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

- (1) Geographic location of each hospital;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

- (1) Geographic location of each surgical center for ambulatory patients;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;
- (e) Be presented in a manner that allows a person to view and compare the information separately for:
 - (1) The inpatients and outpatients of each hospital; and
 - (2) The outpatients of each surgical center for ambulatory patients;
- (f) Be readily accessible and understandable by a member of the general public;
- (g) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; and
- (h) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:
 - (1) Useful to consumers;
 - (2) Nationally recognized; and
 - (3) Reported in a standard and reliable manner.
- 2. The Department shall:
 - (a) Publicize the availability of the Internet website;
 - (b) Update the information contained on the Internet website at least quarterly;
 - (c) Ensure that the information contained on the Internet website is accurate and reliable;
 - (d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;
 - (e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;
 - (f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and
 - (g) Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 327 revises Senate Bill No. 340 by clarifying that certain data may only be reported if it is available. This addresses the differences in the data that is reported and available for inpatient and outpatient treatment and services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 347.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 347.

"SUMMARY—~~{Authorizes the issuance of a subpoena to compel the production of certain financial records as part of an investigation of the exploitation of an older person.}~~ **Confers the powers of a peace officer upon certain employees of the Aging and Disability Services Division of the Department of Health and Human Services for certain purposes.** (BDR ~~{15-1075}~~)" **23-1075)**"

"AN ACT relating to older persons; ~~{authorizing the issuance of a subpoena to compel the production of certain financial records and other documents in an investigation of the exploitation of an older person under certain circumstances;}~~ **conferring the powers of a peace officer upon certain employees of the Aging and Disability Services Division of the Department of Health and Human Services for certain purposes;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain persons who have reasonable cause to believe that an older person has been abused, neglected, exploited or isolated to report the abuse, neglect, exploitation or isolation of the older person to the Aging and Disability Services Division of the Department of Health and Human Services, or a local office thereof, a police department, sheriff's office or a county's office for protective services. (NRS 200.5093) The exploitation of an older person consists of wrongfully depriving the older person of the ownership, use, benefit or possession of his or her money, assets or property. (NRS 200.5092) ~~{This bill authorizes the Administrator of the Division or the executive head of an office or department that is investigating a report of the exploitation of an older person to issue an administrative subpoena to compel the production of financial records or other documents relating to the older person which are in the possession of a bank or other financial institution, savings and loan association, thrift company or credit union.}~~ **Section 4 of this bill confers upon employees of the Division, as designated by the Administrator of the Division, the powers of a peace officer when performing duties relating to investigations of reports of abuse, neglect, exploitation or isolation of older persons or vulnerable persons.**

Section 5 of this bill designates as category II peace officers employees of the Division, as designated by the Administrator of the Division, when performing duties relating to investigations of reports of abuse, neglect, exploitation or isolation of older persons or vulnerable persons.

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

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

~~If the Aging and Disability Services Division of the Department of Health and Human Services or a local office thereof, a police department or sheriff's office, or a county office for protective services investigates a report of the exploitation of an older person made pursuant to NRS 200.5093, the Administrator of the Division or the executive head of the department or office may issue a subpoena to compel the production of financial records or other documents relating to the older person by a:~~

~~1. Financial institution subject to the provisions of any chapter of title 55 of NRS;~~

~~2. Savings and loan association subject to the provisions of chapter 673 of NRS;~~

~~3. Thrift company subject to the provisions of chapter 677 of NRS; or~~

~~4. Credit union subject to the provisions of chapter 678 of NRS.]~~

(Deleted by amendment.)

Sec. 2. [NRS 200.5092 is hereby amended to read as follows:

200.5092 As used in NRS 200.5091 to 200.50995, inclusive, ~~and section 1 of this act~~, unless the context otherwise requires:

1. "Abuse" means willful and unjustified:

(a) Infliction of pain, injury or mental anguish on an older person or a vulnerable person; or

(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.

2. "Exploitation" means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:

(a) Obtain control, through deception, intimidation or undue influence, over the older person's or vulnerable person's money, assets or property with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property; or

(b) Convert money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property.

➤ As used in this subsection, "undue influence" does not include the normal influence that one member of a family has over another.

3. "Isolation" means willfully, maliciously and intentionally preventing an older person or a vulnerable person from having contact with another person by:

(a) Intentionally preventing the older person or vulnerable person from receiving visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor; or

(b) Physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older person or vulnerable person.

➤ The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of a physician of the older person or vulnerable person.

4. "Neglect" means the failure of:

(a) A person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable person or who has voluntarily assumed responsibility for his or her care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person or vulnerable person; or

(b) An older person or a vulnerable person to provide for his or her own needs because of inability to do so.

5. "Older person" means a person who is 60 years of age or older.

6. "Protective services" means services the purpose of which is to prevent and remedy the abuse, neglect, exploitation and isolation of older persons. The services may include investigation, evaluation, counseling, arrangement and referral for other services and assistance.

7. "Vulnerable person" means a person 18 years of age or older who:

(a) Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or

(b) Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.] **(Deleted by amendment.)**

Sec. 3. [NRS 200.50984 is hereby amended to read as follows:

200.50984 1. Notwithstanding any other statute to the contrary, the local office of the Aging and Disability Services Division of the Department of Health and Human Services and a county's office for protective services, if one exists in the county where a violation is alleged to have occurred, may for the purpose of investigating an alleged violation of NRS 200.5091 to 200.50995, inclusive, ~~and section 1 of this act~~ inspect all records pertaining

to the older person on whose behalf the investigation is being conducted, including, but not limited to, that person's medical and financial records.

2. Except as otherwise provided in this subsection ~~and section 1 of this act~~, if a guardian has not been appointed for the older person, the Aging and Disability Services Division or the county's office for protective services shall obtain the consent of the older person before inspecting those records. If the Aging and Disability Services Division or the county's office for protective services determines that the older person is unable to consent to the inspection, the inspection may be conducted without his or her consent. Except as otherwise provided in this subsection ~~and section 1 of this act~~, if a guardian has been appointed for the older person, the Aging and Disability Services Division or the county's office for protective services shall obtain the consent of the guardian before inspecting those records. If the Aging and Disability Services Division or the county's office for protective services has reasonable cause to believe that the guardian is abusing, neglecting, exploiting or isolating the older person, the inspection may be conducted without the consent of the guardian, except that if the records to be inspected are in the personal possession of the guardian, the inspection must be approved by a court of competent jurisdiction. **(Deleted by amendment.)**

Sec. 4. NRS 289.240 is hereby amended to read as follows:

289.240 **1.** Forensic technicians and correctional officers employed by the Division of Mental Health and Developmental Services of the Department of Health and Human Services at facilities for offenders with mental disorders have the powers of peace officers when performing duties prescribed by the Administrator of the Division.

2. Employees of the Aging and Disability Services Division of the Department of Health and Human Services, as designated by the Administrator of the Division, have the powers of peace officers when performing duties pursuant to NRS 200.5091 to 200.50995, inclusive.

Sec. 5. NRS 289.470 is hereby amended to read as follows:

289.470 "Category II peace officer" means:

1. The Bailiff of the Supreme Court;
2. The bailiffs of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests;
3. Constables and their deputies whose official duties require them to carry weapons and make arrests;
4. Inspectors employed by the Nevada Transportation Authority who exercise those powers of enforcement conferred by chapters 706 and 712 of NRS;
5. Parole and probation officers;
6. Special investigators who are employed full-time by the office of any district attorney or the Attorney General;
7. Investigators of arson for fire departments who are specially designated by the appointing authority;
8. The assistant and deputies of the State Fire Marshal;

9. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by chapter 565 of NRS;

10. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by NRS 561.225;

11. Investigators for the State Forester Firewarden who are specially designated by the State Forester Firewarden and whose primary duties are related to the investigation of arson;

12. School police officers employed by the board of trustees of any county school district;

13. Agents of the State Gaming Control Board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;

14. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of NRS 481.048;

15. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of NRS 481.0481;

16. Legislative police officers of the State of Nevada;

17. The personnel of the Capitol Police Division of the Department of Public Safety appointed pursuant to subsection 2 of NRS 331.140;

18. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;

19. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 whose official duties require them to enforce court orders on juvenile offenders and make arrests;

20. Field investigators of the Taxicab Authority;

21. Security officers employed full-time by a city or county whose official duties require them to carry weapons and make arrests;

22. The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department;

23. Criminal investigators who are employed by the Secretary of State; ~~and~~

24. The Inspector General of the Department of Corrections and any person employed by the Department as a criminal investigator ~~and~~; and

25. Employees of the Aging and Disability Services Division of the Department of Health and Human Services, as designated by the Administrator of the Division, when performing duties pursuant to NRS 200.5091 to 200.50995, inclusive.

Senator Wiener moved the adoption of the amendment.

Remarks by Senators Wiener and Kieckhefer.

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

SENATOR WIENER:

The amendment deletes the provisions in the bill regarding administrative subpoenas. Instead, it confers certain powers of a category II peace officer—including the ability to seek a warrant—upon employees of the Aging and Disability Services Division.

Such employees must be designated by the Administrator of the Division, and their powers are expressly for the purposes of performing investigations into reports of abuse, neglect, and exploitation of older and vulnerable persons.

SENATOR KIECKHEFER:

Thank you, Mr. President. I am trying to understand exactly what the powers of a peace officer are. I know you were trying to take out subpoena powers. I am concerned that this might be a powerful authority for a person to have.

SENATOR WIENER:

The bill addresses the problem of social workers who find what they believe is financial abuse or violation of seniors and vulnerable people. They are frustrated because, when they take their records to law enforcement, law enforcement often does not feel compelled to obtain a warrant from a judge. The State social workers would like to use administrative subpoena powers to go into the financial records to prove abuse. However, the Committee was concerned about Constitutional questions because these State workers would be using subpoena powers to conduct a search rather than a warrant. There was a suggestion that if the Division had a peace officer, then that peace officer would have the authority to do what law enforcement has not been doing for them. If this peace officer were able to present the case regarding abuse of seniors and the vulnerable to a judge, then this person would be able to access the records with a warrant.

SENATOR KIECKHEFER:

Are there other powers besides the ability to get a warrant that a peace officer would have?

SENATOR WIENER:

I do not know what the scope of authority is for a Peace Officer 2, but I know the intention of this is that the designation of Peace Officer 2 was for the express purpose of obtaining warrants to get information to prove their cases.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 351.

Bill read second time.

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

Amendment No. 496.

"SUMMARY—Revises provisions governing disciplinary action against contractors. (BDR 54-225)"

"AN ACT relating to contractors; authorizing the State Contractors' Board to take disciplinary action against a contractor for nonpayment of taxes, fees or unemployment compensation contributions under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensing and regulation of contractors by the State Contractors' Board. (Chapter 624 of NRS) **Section 1** of this bill authorizes the Board to take certain actions against a contractor if the Board receives written notice from the Department of Taxation or the Department of Employment, Training and Rehabilitation regarding the contractor and of the ~~existence~~ amount of a lien against the contractor for nonpayment of taxes or fees or nonpayment of unemployment compensation contributions. Specifically, the Board, after notice and hearing, may: (1) suspend the license of the contractor until the lien expires, is released or is otherwise discharged; (2) require the contractor to file a bond with the Board; (3) require the contractor to obtain a performance bond and a payment bond; ~~and~~ (4) take certain other disciplinary action against the contractor ~~if~~; **and (5) recover all costs of the hearing from the contractor. Section 1 also provides that such written notice creates a rebuttable presumption of the validity of the lien described in the notice. Sections 4 and 6 of this bill require the Executive Director of the Department of Taxation and the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation, respectively, within 5 business days after ~~acquiring~~ receiving written notice of the recording of specified documentation and the acquisition of** a lien against a contractor, to notify the Board of the name and license number of the contractor and the amount of the lien and also to notify the Board ~~when~~ **after receiving written notice that** the lien ~~expires, is~~ **has expired, has been** released or ~~is~~ **has been** otherwise discharged.

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

Section 1. Chapter 624 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Board receives written notice regarding a contractor and of the ~~existence~~ amount of a lien against ~~the~~ the contractor from the Executive Director of the Department of Taxation pursuant to section 4 of this act or from the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation pursuant to section 6 of this act, the Board, after notice and hearing, may:

~~1~~ (a) Suspend the license of the contractor until the lien expires, is released or is otherwise discharged;

~~2~~ (b) Require the contractor to file a bond or establish a cash deposit, subject to the terms and conditions applicable to other such bonds or cash deposits that may be required by the Board pursuant to subsection 6 of NRS 624.270;

~~3~~ (c) Require the contractor, before commencing work on any construction project, to obtain a performance bond and a payment bond, subject to the terms and conditions applicable to other such bonds that may be required by the Board pursuant to subsection 8 of NRS 624.270; ~~and~~

~~4.7~~ *(d) Take such other disciplinary action against the contractor as is authorized by NRS 624.300 ~~4.7~~; and*

(e) Recover all costs of the hearing from the contractor.

2. A written notice received by the Board pursuant to subsection 1 creates a rebuttable presumption of the validity of the lien described in the notice.

Sec. 2. NRS 624.750 is hereby amended to read as follows:

624.750 1. It is unlawful for a person to commit any act or omission described in subsection 1 of NRS 624.3012, subsection 2 of NRS 624.3013, NRS 624.3014 or subsection 1, 3 or 7 of NRS 624.3016.

2. Unless a greater penalty is otherwise provided by a specific statute, any person who violates subsection 1, NRS 624.305, subsection 1 of NRS 624.700 or NRS 624.720 or 624.740:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, and may be further punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense, is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$2,000 nor more than \$4,000, and may be further punished by imprisonment in the county jail for not more than 1 year.

(c) For the third or subsequent offense, is guilty of a category E felony and shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

3. It is unlawful for a person to receive money for the purpose of obtaining or paying for services, labor, materials or equipment if the person:

(a) Willfully fails to use that money for that purpose by failing to complete the improvements for which the person received the money or by failing to pay for any services, labor, materials or equipment provided for that construction; and

(b) Wrongfully diverts that money to a use other than that for which it was received.

4. Unless a greater penalty is otherwise provided by a specific statute, any person who violates subsection 3:

(a) If the amount of money wrongfully diverted is \$1,000 or less, is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$2,000 nor more than \$4,000, and may be further punished by imprisonment in the county jail for not more than 1 year.

(b) If the amount of money wrongfully diverted is more than \$1,000, is guilty of a category E felony and shall be punished by a fine of not less than \$5,000 nor more than \$10,000, and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

5. Imposition of a penalty provided for in this section is not precluded by any disciplinary action taken by the Board against a contractor pursuant to

the provisions of NRS 624.300 to 624.305, inclusive ~~+~~ , **and section 1 of this act.**

Sec. 3. NRS 624.965 is hereby amended to read as follows:

624.965 1. A violation of any provision of NRS 624.900 to 624.965, inclusive, or any regulation adopted by the Board with respect to contracts for work concerning a residential pool or spa by a contractor constitutes cause for disciplinary action pursuant to NRS 624.300.

2. It is unlawful for a person to violate any provision of NRS 624.900 to 624.965, inclusive.

3. Any person who violates any provision of NRS 624.900 to 624.965, inclusive:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, and may be further punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense, is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$2,000 nor more than \$4,000, and may be further punished by imprisonment in the county jail for not more than 1 year.

(c) For the third or subsequent offense, is guilty of a class E felony and shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

4. The imposition of a penalty provided for in this section is not precluded by any disciplinary action taken by the Board against a contractor pursuant to the provisions of NRS 624.300 to 624.305, inclusive ~~+~~ , **and section 1 of this act.**

Sec. 4. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Department, pursuant to NRS 360.473, files a certificate in the office of any county recorder against a contractor for any unpaid tax or fee and thereby acquires a lien against the real and personal property of the contractor in the county, ~~pursuant to NRS 360.420,~~ the Executive Director shall, within 5 business days ~~+~~ after receiving written notice from the county recorder that the certificate has been recorded, notify the State Contractors' Board in writing of the name and license number of the contractor and the amount of the lien, including interest and penalties. The ~~notification~~ written notice provided to the State Contractors' Board must include a copy of the certificate that was ~~filed with~~ recorded and returned by the county recorder ~~+~~ if the county recorder returned a copy of the recorded certificate to the Department.

2. The Executive Director shall notify the State Contractors' Board in writing within 5 business days after receiving any written notice from the county recorder that the lien ~~expires, is~~ has expired, has been released or ~~is~~ has been otherwise discharged.

3. As used in this section, "contractor" has the meaning ascribed to it in NRS 624.020.

Sec. 5. NRS 375A.305 is hereby amended to read as follows:

375A.305 1. The tax imposed by NRS 375A.100 becomes a lien upon the gross estate of the decedent on the date of death and remains as such until the tax, interest and penalties owed to the State are paid or the lien is otherwise discharged.

2. If the tax is not paid when due, the person who had possession of the property of the gross estate on the date of death of the decedent is personally liable for the tax. If the person who is liable for the tax transfers property of the gross estate to a bona fide purchaser or holder of a security interest, the lien imposed by subsection 1 attaches at the moment of the transfer to all of the property of the person who is liable for the tax including property the person acquires after the transfer, except the property which is transferred to a bona fide purchaser or a holder of a security interest. The lien does not attach to any property transferred to a bona fide purchaser or a holder of a security interest but it attaches to the consideration received for the property by the person who is liable for the tax.

3. If the lien is not extinguished or otherwise released or discharged, it expires 10 years after the date a determination of deficiency is issued if, within that period, no notice of the lien has been recorded or filed as provided in NRS 360.450.

4. Except as otherwise provided in this section, the provisions of NRS 360.420 to 360.560, inclusive, *and section 4 of this act* apply to the lien.

Sec. 6. Chapter 612 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If judgment is entered by a district court in favor of the Unemployment Compensation Service and against a contractor in the amount of any unpaid contributions, interest and forfeit provided by this chapter and an abstract of judgment or a copy thereof is recorded in the office of any county recorder, the Administrator shall, within 5 business days ~~after receiving written notice from the county recorder that the abstract of judgment or a copy thereof has been recorded~~, notify the State Contractors' Board in writing of the name and license number of the contractor and the amount of the lien against the real and personal property of the contractor in the county which, pursuant to NRS 612.635, was created by the recording of the abstract of judgment. ~~The [notification]~~ written notice provided to the State Contractors' Board must include a copy of the abstract of judgment that was ~~filed with~~ recorded and returned by the county recorder ~~if~~ if the county recorder returned a copy of the recorded abstract of judgment to the Administrator.

2. The Administrator shall notify the State Contractors' Board in writing within 5 business days after receiving any written notice from the county recorder that the lien ~~expires, is~~ has expired, has been released or ~~is~~ has been otherwise discharged.

3. As used in this section, "contractor" has the meaning ascribed to it in NRS 624.020.

Sec. 7. NRS 612.645 is hereby amended to read as follows:

612.645 1. In all proceedings under NRS 612.625 to 612.640, inclusive, **and section 6 of this act**, the Unemployment Compensation Service ~~{shall be}~~ **is** authorized to act in its name on behalf of the State of Nevada.

2. No costs or filing fees ~~{shall}~~ **may** be charged to the State of Nevada in any proceedings brought under any provision of NRS 612.625 to 612.640, inclusive, **and section 6 of this act** nor ~~{shall}~~ **may** any bond or undertaking be required of the State of Nevada, either in proceedings in the district court or on appeal to the Supreme Court.

Sec. 8. This act becomes effective on July 1, 2011.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 496 to Senate Bill No. 351 requires the State Contractors' Board to take certain action against a licensed contractor when the Board receives written notice specifying the license number of the contractor and the amount of a lien placed against the contractor by the Department of Taxation or the Employment Security Division.

A written notice received by the Board from the Department of Taxation creates a rebuttable presumption of the validity of the lien.

The Board may, after notice and hearing, recover all costs of a hearing held by the Board in connection with any action based on the lien.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 356.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 346.

"SUMMARY—Establishes the crime of stolen valor. (BDR 15-999)"

"AN ACT relating to crimes; establishing the crime of stolen valor; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Stolen Valor Act of 2005 prohibits a person from falsely representing himself or herself, verbally or in writing, to have been awarded certain military decorations or awards. A person who violates this provision may be fined, imprisoned for not more than 6 months or both fined and imprisoned. (18 U.S.C. § 704(b)) The United States Court of Appeals for the Ninth Circuit recently held that the Stolen Valor Act is facially invalid pursuant to the First Amendment to the Constitution of the United States and is therefore unconstitutional. The Ninth Circuit Court found that the Act as currently drafted restricts free speech rights, but the Court suggested that the statute could be modified into a constitutional anti-fraud statute. (*United States v. Alvarez*, 617 F.3d 1198, 1212, 1217 (9th Cir. 2010)) The

Court noted that to prove that a person is liable for fraud, it must be shown that the person knowingly made a false representation of fact to intentionally mislead another person and successfully misled the other person through such false representation. (*United States v. Alvarez*, 617 F.3d 1198, 1211 (9th Cir. 2010) (citing *Ill. ex rel. Madigan v. Telemarketing Assocs., Inc.*, 538 U.S. 600, 620 (2003)))

Existing Nevada law prohibits a person from willfully wearing the badge, button, insignia or rosette of any military order or of any secret order or society, or from using any such item to obtain aid, assistance or any other benefit or advantage, if the person is not entitled to wear or use any such items. (NRS 205.410) This bill repeals existing Nevada law and provides that a person commits the crime of stolen valor if the person knowingly, with the intent to mislead or defraud and with the intent to obtain some benefit or something of monetary value, misleads or defrauds another person by committing various acts concerning the false representation of himself or herself with relation to military service.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not knowingly, with the intent to mislead or defraud:

(a) Make any false representation of military service, including, without limitation, falsely representing his or her current or former military status, claiming that he or she served in the Armed Forces of the United States, a reserve component thereof or the National Guard, or that he or she served in a combat zone;

(b) Make any such false representation with the intent to obtain employment, be elected or appointed to public office or obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain employment, be elected or appointed to public office or obtain something of monetary value.

2. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely represent himself or herself by wearing any military decoration or medal authorized by Congress for the Armed Forces of the United States, any service medal or badge awarded to members of such forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;

(b) Make such false representation with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain something of monetary value.

3. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely represent himself or herself, verbally or in writing, to have been awarded any military decoration or medal authorized by Congress for

the Armed Forces of the United States, any service medal or badge awarded to members of such forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;

(b) Make such false representation with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain something of monetary value.

4. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely claim, verbally or in writing, to be or to have been a member of any elite United States Special Operations Command (USSOCOM) of the Armed Forces of the United States, any of its component units or the predecessors of any such units by wearing or displaying the distinctive emblem, badge or pin thereof;

(b) Make such false claims with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false claims and obtain something of monetary value.

5. A person shall not knowingly, with the intent to mislead or defraud:

(a) Forge, counterfeit or falsely alter any military document of any military service of the United States, including, without limitation, a certificate of discharge or a military identification card or badge;

(b) Use for any purpose, unlawfully possess, display or exhibit any such false document with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through the use of any such false document and obtain something of monetary value.

6. A person who violates any provision of this section is guilty of the crime of stolen valor. A person who violates:

(a) Subsection 1 is guilty of a misdemeanor.

(b) Subsection 2, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.

(c) Subsection 3, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.

(d) Subsection 4 is guilty of a misdemeanor.

(e) Subsection 5 is guilty of a gross misdemeanor.

7. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star or Purple Heart, or any replacement or duplicate medal for any such medal as authorized by law, is guilty of a gross misdemeanor.

8. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Medal of Honor is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 2. NRS 205.410 is hereby repealed.

TEXT OF REPEALED SECTION

205.410 Improper use of insignia.

Every person who shall willfully wear the badge, button, insigne or rosette of any military order or of any secret order or society, or any similitude thereof; or who shall use any such badge, button, insigne or rosette to obtain aid or assistance, or any other benefit or advantage, unless the person shall be entitled to so wear or use the same under the constitution, bylaws, rules and regulations of such order or society, shall be fined not more than \$500.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 346 to Senate Bill No. 356 simply clarifies that "something of value" used throughout the bill must be "something of value."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 367.

Bill read second time.

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

Amendment No. 215.

"SUMMARY—Requires certain health care practitioners to communicate certain information to the public. (BDR 54-625)"

"AN ACT relating to health care practitioners; requiring that advertisements for health care services include certain information; requiring certain health care practitioners to communicate certain information to the public; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~This bill is, which is patterned after legislation recently enacted in California, requires certain health care practitioners to communicate the practitioner's name, type of state-granted practitioner license and highest level of academic degree to each of the practitioner's patients by: (1) providing such information in writing at a patient's initial office visit; (2) prominently displaying such information in an area of the practitioner's office that is visible to patients; or (3) both providing such information in writing and prominently displaying such information. If a health care practitioner chooses to disclose such required information by providing the information in writing at a patient's initial office visit, the information must conform to a certain format. Additionally, a health care practitioner who provides information regarding health care services on an Internet website that is directly controlled or administered by the practitioner or his or her office personnel must prominently display the required information regarding the practitioner's name, license and degree on the Internet website.~~ requires that advertisements for health care services include certain information regarding the qualifications of certain health care practitioners to whom

the advertisement pertains, including information regarding any applicable licensure or board certification held by a health care practitioner. Such advertisements also must not include any deceptive or misleading information regarding a health care practitioner. This bill further requires certain health care practitioners who provide health care services in this State to: (1) communicate their specific licensure to all current and prospective patients; and (2) display in their office a writing that clearly identifies the type of license they hold, in a size that is visible and apparent to all current and prospective patients. A health care practitioner must comply with such advertising and patient disclosure requirements in each office in which the health care practitioner practices. This bill also exempts certain health care practitioners from ~~{disclosing} such {required information to patients.}~~ **advertising and patient disclosure requirements.**

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection ~~{4, a health care practitioner shall communicate his or her name, type of state-granted practitioner license and highest level of academic degree to every patient by using one or both of the following methods:~~

(a) Providing such information in writing at a patient's initial office visit.

(b) Prominently displaying such information in an area of his or her office that is visible to patients.

2. A health care practitioner who chooses to disclose the information required pursuant to this section in the manner set forth in paragraph (a) of subsection 1 shall present such information in at least 24-point type or font in the following format:

HEALTH CARE PRACTITIONER INFORMATION

— 1. Name and license

— 2. Highest level of academic degree

— 3. Board certification (ABMS)

3. A health care practitioner who provides information regarding health care services on an Internet website that is directly controlled or administered by the health care practitioner or his or her office personnel shall prominently display the information required pursuant to this section on the Internet website.

~~4.7~~ **2:**

(a) An advertisement for health care services that names a health care practitioner must identify the type of license held by the health care practitioner and must not contain any deceptive or misleading information.

(b) An advertisement for health care services that includes the name of a physician or an osteopathic physician must disclose the name of the board by which the physician or osteopathic physician is licensed or certified. The

advertisement must not include a statement that a physician or osteopathic physician is "board certified" unless the board is:

(1) A specialty board of the American Board of Medical Specialties or the American Osteopathic Association, or a board with equivalent requirements that is approved by the licensing authority which issues a license to practice medicine or osteopathic medicine in this State to the physician or osteopathic physician; or

(2) A board that requires a postgraduate training program which provides complete training in the specialty or subspecialty of the physician or osteopathic physician and which is approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.

(c) A health care practitioner who provides health care services in this State must conspicuously post and affirmatively communicate his or her specific licensure to all current and prospective patients. The health care practitioner shall display in his or her office a writing that clearly identifies the type of license held by the health care practitioner. The writing must be of sufficient size to be visible and apparent to all current and prospective patients.

(d) A health care practitioner who practices in more than one office shall comply with the requirements set forth in this section in each office in which he or she practices.

2. The provisions of this section do not apply to the following health care practitioners:

(a) A person who provides professional medical services to enrollees of a health care service plan that exclusively contracts with a single medical group in a specific geographic area to provide or arrange for professional medical services for the enrollees of the plan.

(b) A person who works in a health facility. ~~for medical laboratory.~~

(c) A practitioner of respiratory care licensed under chapter 630 of NRS.

(d) A hearing aid specialist or an apprentice to a hearing aid specialist licensed under chapter 637A of NRS.

(e) A veterinarian or other person licensed under chapter 638 of NRS.

(f) A marriage and family therapist, clinical professional counselor, or intern to a marriage and family therapist or clinical professional counselor licensed under chapter 641A of NRS.

(g) A social worker licensed under chapter 641B of NRS.

(h) A person who works in or is licensed to operate, conduct, issue a report from or maintain a medical laboratory under chapter 652 of NRS.

~~5.7~~ 3. As used in this section:

(a) "Advertisement" means any printed, electronic or oral communication or statement that names a health care practitioner in relation to the practice, profession or institution in which the health care practitioner is employed, volunteers or otherwise provides health care services. The term includes, without limitation, any business card,

letterhead, patient brochure, electronic mail, Internet website, audio or video transmission and any other communication or statement used in the course of business.

(b) "Deceptive or misleading information" means any information that falsely describes or misrepresents the profession, skills, training, expertise, education, board certification or licensure of a health care practitioner.

(c) "Health care practitioner" means ~~any person licensed to practice one of the health professions regulated by~~ who engages in acts related to the treatment of human ailments or conditions and who is subject to licensure or regulation by this title.

~~(b)~~ (d) "Health facility" has the meaning ascribed to it in NRS 439A.015.

~~(c)~~ (e) "Medical laboratory" has the meaning ascribed to it in NRS 652.060.

(f) "Osteopathic physician" has the meaning ascribed to it in NRS 633.091.

(g) "Physician" has the meaning ascribed to it in NRS 630.014.

Sec. 2. This act becomes effective on January 1, 2012.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 215 to Senate Bill No. 367 requires that advertisements for health care services include certain information. An advertisement that names a health care practitioner must identify the type of license held and must not contain any deceptive or misleading information.

The advertisement must disclose the board that licenses the practitioner and must not state that the practitioner is "board certified" unless certain conditions are satisfied.

A health care practitioner must conspicuously post and affirmatively communicate the practitioner's specific licensure to all patients. The practitioner shall display in the practitioner's office a writing that clearly identifies the type of license held by the practitioner and the writing must be of sufficient size to be visible and apparent to all patients.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 377.

Bill read second time.

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

Amendment No. 339.

"SUMMARY—Establishes provisions authorizing public-private partnerships for certain projects. (BDR 22-297)"

"AN ACT relating to public-private partnerships; authorizing a public agency to enter into a public-private partnership for certain projects; setting forth requirements for such public-private partnerships; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth standards and requirements for the public procurement of goods and services and for public works projects. (Chapters 332, 333, 334 and 338 of NRS) **Section 8** of this bill provides an alternative to current standards and requirements by authorizing the State and certain local governments to enter into public-private partnerships. **Sections 7 and 9** of this bill provide that a public-private partnership is a contract entered into by a private partner and the State or a local government under which the private partner assumes responsibility for: (1) planning, designing, financing, constructing, equipping, improving, maintaining ~~or~~ or operating ~~for acquiring rights of way for~~ a project ~~or~~ related to a museum, or any portion thereof, but where the State or local government retains ownership of the project; or (2) providing services that a public agency is authorized to provide. **Sections 9-15** of this bill set forth the requirements for entering into a public-private partnership, including the solicitation and consideration of proposals, requirements for and authority of private partners, and the financing of the public-private partnership, and provide authority to carry out certain activities relating to the public-private partnership.

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

Section 1. Title 22 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Local government" has the meaning ascribed to it in NRS 354.474.*

Sec. 4. *"Private partner" means a person with whom a public agency enters into a public-private partnership.*

Sec. 5. *"Project" means ~~or~~*

~~1. Any~~ any *structure, facility, undertaking or system related to a museum which a public agency is authorized to plan, construct, design, finance, improve, equip, operate ~~or~~ or maintain , for acquire the rights of way for, or any combination thereof . ~~or~~ including, without limitation:*

- (a) Land and interests therein;*
- (b) Buildings;*
- (c) Equipment;*
- (d) Water systems;*
- (e) Sewer systems;*
- (f) Drainage and flood control systems;*
- (g) Hospitals;*
- (h) Jails;*
- (i) Schools;*

~~(j) Libraries;~~
~~(k) Museums;~~
~~(l) Highways, streets and sidewalks; and~~
~~(m) Furnishings, appurtenances and other items financed in connection with paragraphs (a) to (l), inclusive.~~

~~2. Any services that a public agency is authorized to provide.]~~

Sec. 6. "Public agency" means:

1. This State or any agency of this State; or
2. Any local government of this State.

Sec. 7. "Public-private partnership" means a contract entered into by a public agency and one or more private partners under which the private partner assumes responsibility for a project or any portion thereof.

Sec. 8. A public agency may enter into a public-private partnership with one or more private partners. A public-private partnership must set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the public agency and private partner.

Sec. 9. 1. A public agency may do such things as are necessary and appropriate to carry out a project, including, without limitation:

(a) Plan, design, finance, construct, improve, equip, maintain, operate and make such other improvements to existing projects as may be necessary and appropriate to accommodate, develop and own the project.

(b) Determine the allowable uses of and the goals, standards, specifications and criteria of the project.

(c) Enter into contracts or other agreements with any private entity, any public agency, another state or the Federal Government for the project.

(d) Retain legal, financial, technical and other consultants to assist the public agency concerning the public-private partnership.

(e) Secure financial and other assistance for the project.

(f) Apply for, accept and expend money from any lawful source, including, without limitation, any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the public-private partnership.

(g) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the public agency to carry out the public-private partnership.

(h) Pay any compensation to which a private partner is entitled, pursuant to the terms of the public-private partnership, upon the termination of the public-private partnership.

2. Any project described in ~~subsection 1 of~~ section 5 of this act, whether planned, designed, financed, constructed, improved, equipped, maintained or operated by the public agency or a private partner, must be and remain:

- (a) A public use;

- (b) *A public facility; and*
- (c) *Owned by the public agency.*

Sec. 10. 1. ~~4~~ Except as otherwise provided in subsection 3, a public-private partnership entered into pursuant to this chapter must be awarded through one or more solicitations that must include, without limitation, requests for qualifications, the creation of a short list of qualified proposers, requests for proposals, negotiations and best and final offers.

2. *For any solicitation in which the public agency issues a request for qualifications, request for proposals or similar solicitation for a public-private partnership, the public agency may determine which factors it will consider and the relative weight of those factors in the evaluation process for the project in order to obtain the best value for the public agency.*

3. The public agency shall consider any unsolicited proposal which the public agency receives during the period that the public agency is receiving requests for qualifications.

4. The public agency may reimburse an unsuccessful bidder for a portion of the cost of preparing a proposal or best and final offer, or both. If the public agency intends to make such a reimbursement, the public agency shall set forth the terms and conditions of the reimbursement in the request for qualifications or request for proposals for the project.

Sec. 11. 1. *Except as otherwise provided in paragraph (d) of subsection 2, the provisions of chapters 332, 333, 334 and 338 of NRS ~~408.337 and 408.357 and subsection 1 of NRS 408.3884~~ do not apply to a public private partnership entered into pursuant to the provisions of this chapter.*

2. *To be eligible to be a private partner in connection with a public-private partnership, a private partner must:*

(a) *Obtain a performance bond and payment bond as the public agency may require;*

(b) *Obtain insurance covering general liability and liability for errors and omissions;*

(c) *Not have been found liable for breach of contract with respect to a previous contract with the public agency, other than a breach for legitimate cause; and*

(d) *If applicable to the project, not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895 ~~4~~ or 338.1475 ~~4~~ ~~or 408.333.~~*

3. *A private partner is not required to hold the licenses and certifications required to undertake the work for the project as a condition of eligibility to be a private partner, but must ensure that any work that requires a license and certification is performed by persons that possess the required licenses and certifications.*

Sec. 12. 1. A public-private partnership may, as determined by the public agency, be financed:

(a) By the private partner using its own money or obtaining money in any lawful manner for that entity.

(b) By the issuance of revenue bonds or notes of the public agency which are payable from and secured by:

(1) Revenues from the public-private partnership, including, without limitation, any user fees and payments established, due and collected;

(2) Payments from the public agency to the private partner pursuant to the public private partnership;

(3) Payments from the private partner;

(4) Guarantees or other forms of financial assistance from the private partner or any other person;

(5) Any grants, donations or other sources of money, if use of the money for the purpose of paying and securing the payment of the principal of and interest on those bonds or notes is consistent with and not prohibited by the instrument, law or regulation under which the money is received; or

(6) Any combination thereof.

↪ Any bonds or notes authorized by this paragraph are special, limited obligations of the public agency payable solely from the revenues specifically pledged to the payment of those obligations, and shall never be a debt of the State under Section 3 of Article 9 of the Nevada Constitution.

(c) By the issuance of revenue bonds or notes of the public agency, to finance the project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the public agency and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued under this paragraph must be solely payable from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the public agency pursuant to the public-private partnership. Any bonds or notes as authorized by this paragraph are special, limited obligations of the public agency payable solely from the revenues specifically pledged to the payment of those obligations, and shall never be a debt of the State under Section 3 of Article 9 of the Nevada Constitution.

(d) With legally available money from any other source or from user fees.

(e) By any combination of paragraphs (a) to (d), inclusive.

2. A public-private partnership entered into pursuant to this chapter does not create a debt for the purposes of Section 3 of Article 9 of the Nevada Constitution.

Sec. 13. Information obtained by or disclosed to the public agency during the procurement or negotiation of a public-private partnership may be kept confidential until the public-private partnership is executed, except that the public agency may exempt from release any proprietary

information obtained by or disclosed to the public agency during the procurement or negotiation.

Sec. 14. *The public agency may acquire, condemn or hold real property and related appurtenances under fee title, lease, easement, dedication or license for the public-private partnership. The public agency may grant to a private partner a lease, easement, operating agreement, license, permit or right of entry for such real property and related appurtenances and such grant and use shall be deemed for all purposes:*

- 1. A public use; and*
- 2. A public facility.*

Sec. 15. *The public agency may include authority in a public-private partnership or otherwise authorize a private partner to remove any encroachments or relocate any utility from the right-of-way of the project.*

Sec. 16. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

- (a) Portion of the property leased or used; and
- (b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, in accordance with NRS 361.2275, ➤ can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 and in accordance with NRS 361.2275.

2. Subsection 1 does not apply to:

- (a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution, except any part of such property located within a tax increment area created pursuant to NRS 278C.155;

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by persons who are blind under the auspices of the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days; or

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization.

(n) Any lease, easement, operating agreement, license ~~for~~ or permit ~~for~~ right of entry for any exempt property granted by a governmental entity pursuant to section 14 of this act.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Sec. 17. This act becomes effective on July 1, 2011.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 339 to Senate Bill No. 377 limits the projects authorized under this bill to museums; and specifies that the State or local government shall consider any unsolicited proposal for a public-private partnership that it receives during the period that the State or local government is receiving requests for qualifications.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 384.

Bill read second time.

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

Amendment No. 254.

"SUMMARY—Authorizes the governing body of a local government to adopt procedures for the sale of naming rights to certain public facilities. (BDR 28-172)"

"AN ACT relating to public facilities; authorizing the governing body of a local government to adopt procedures for the sale of the naming rights to ~~the park, recreational facility or~~ **certain parks, recreational facilities and** other public ~~facility~~ **facilities** owned by the local government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners in a county whose population is 400,000 or more (currently Clark County) to adopt, by ordinance, procedures for the sale of naming rights relating to a shooting range that is owned by the county. (NRS 244.30701) This bill authorizes the governing body of a local government (including counties, cities, towns, school districts and general improvement districts) **, with limited exceptions,** to adopt, by ordinance, procedures for the sale of the naming rights to a park, recreational facility or other public facility owned by the local government.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The~~ Except as otherwise provided in subsection 2, the governing body of a local government may adopt, by ordinance, procedures for the sale of naming rights to a park, recreational facility or other public facility that is owned by the local government, including, without limitation, the sale of naming rights to:

(a) Buildings, improvements, facilities, features, fixtures and sites located within the boundaries of the park, recreational facility or other public facility; and

(b) Activities, events and programs held at the park, recreational facility or other public facility.

2. In adopting an ordinance pursuant to subsection 1, a governing body shall not authorize the sale of naming rights to any park, recreational facility or other public facility which is:

(a) Subject to a lease agreement authorizing the lessee to sell such naming rights; or

(b) Currently named after a person of historical significance.

3. As used in this section:

(a) "Local government" means any political subdivision of this State, including, without limitation, a county, city, town, school district, general improvement district or other district which performs a governmental function.

(b) "Park" means real property and any improvements made thereon that are designed to serve the cultural, leisure, recreational and outdoor needs of natural persons.

(c) "Public facility" means any facility, including, without limitation, real or personal property, which is owned by a local government.

(d) "Recreational facility" means real and personal property and improvements to real property for athletic, cultural and leisure activities and all appurtenances or customary facilities and uses associated therewith.

Sec. 2. This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 254 to Senate Bill No. 384 clarifies that when adopting an ordinance regarding naming rights, a governing body shall not authorize the sale of naming rights to any park, recreational facility or other public facility which is subject to a lease agreement authorizing the lessee to sell such naming rights (such as the Reno Aces ballpark) or that is currently named after a person of historical significance.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 385.

Bill read second time.

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

Amendment No. 338.

"SUMMARY—Grants power to local governments to perform certain acts or duties which are not prohibited or limited by statute. (BDR 20-170)"

"AN ACT relating to local government; authorizing counties and cities, with limited exceptions, to exercise the powers necessary for the effective operation of county and city government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

In 1868, Judge John F. Dillon of the Iowa Supreme Court established a common-law rule of statutory interpretation known as Dillon's Rule, which limits the powers of local governments. (*Merriam v. Moody's Ex'rs*, 25 Iowa 163 (Iowa 1868)) Under Dillon's Rule, a local government is authorized to exercise only those powers which are: (1) expressly granted; (2) necessarily or fairly implied in or incident to the powers expressly granted; or

(3) essential to the accomplishment of the declared purposes of the local government.

Under existing law, county commissioners are authorized to exercise only those powers which are expressly granted and powers that are necessarily implied to carry out express powers. (*Sadler v. Board of County Comm'rs*, 15 Nev. 39, 42 (1880)) **Sections 1-7** of this bill authorize a board of county commissioners, with limited exceptions, to exercise all powers needed for the effective operation of county government, even if the power to perform these acts is neither express nor implied, so long as the power is not expressly prohibited or limited by constitutional or statutory provisions or granted to another entity.

Under existing law, a city government is authorized to exercise only those powers expressly granted by the charter or laws creating the city, and the necessary means of employing those powers. (*Tucker v. Mayor of Virginia City*, 4 Nev. 20, 26 (1868)) **Sections 8-21** of this bill authorize city governments, whether created by general law or charter, to exercise all powers needed for the effective operation of city government, with limited exceptions, even if the power to perform these acts is neither express nor implied, so long as the power is not expressly prohibited or limited by constitutional or statutory provisions or granted to another entity.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *It is expressly declared as the intent of the Legislature to grant a board of county commissioners the powers necessary for the effective operation of county government.*

Sec. 3. 1. *The rule of law that any doubt as to the existence of a power of a board of county commissioners must be resolved against its existence is abrogated.*

2. *Any doubt as to the existence of a power of a board of county commissioners must be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.*

Sec. 4. 1. *The rule of law that a board of county commissioners can exercise only powers:*

- (a) Expressly granted by statute;*
- (b) Necessarily or fairly implied in or incident to powers expressly granted; and*
- (c) Indispensable to the declared purposes of a board of county commissioners,*
↪ is abrogated.

2. *A board of county commissioners has:*

- (a) All powers granted it by statute; and*
- (b) All other powers necessary or desirable in the conduct of county affairs, even though not granted by statute.*

Sec. 5. *A board of county commissioners may exercise any power it has to the extent that the power is not expressly:*

1. *Denied by the Constitution of the State of Nevada;*
2. *Denied by the Constitution of the United States;*
3. *Denied by the laws of the State of Nevada; or*
4. *Granted to another entity.*

Sec. 6. 1. *If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a board of county commissioners wanting to exercise the power shall do so in that manner.*

2. *If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a board of county commissioners wanting to exercise the power shall adopt an ordinance prescribing a specific manner for exercising the power.*

Sec. 7. *Except as expressly granted by statute, a board of county commissioners shall not:*

1. *Condition or limit its civil liability ~~if~~ unless such condition or limitation is part of a legally executed contract or agreement between the county and another political subdivision or a private individual or business.*

2. *Prescribe the law governing civil actions between private persons.*

3. *Impose duties on another political subdivision ~~if~~ unless the performance of the duties is part of a legally executed agreement between the county and another political subdivision.*

4. *Impose a tax.*

5. ~~*Impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.*~~

~~6. *Impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for*~~ *the actual cost of providing the services.*

~~7. *Regulate conduct that is regulated by a state agency.*~~

~~8. *Invest money.*~~

~~9. *Order or conduct an election.*~~

Sec. 8. Chapter 266 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 to 13, inclusive, of this act.

Sec. 9. *It is expressly declared as the intent of the Legislature to grant the city council the powers necessary for the effective operation of city government.*

Sec. 10. 1. *The rule of law that any doubt as to the existence of a power of a city council must be resolved against its existence is abrogated.*

2. *Any doubt as to the existence of a power of a city council must be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.*

Sec. 11. 1. *The rule of law that a city council can exercise only powers:*

- (a) *Expressly granted by statute;*

(b) *Necessarily or fairly implied in or incident to powers expressly granted; and*

(c) *Indispensable to the declared purposes of a city council,*

↪ *is abrogated.*

2. *A city council has:*

(a) *All powers granted it by statute; and*

(b) *All other powers necessary or desirable in the conduct of city affairs, even though not granted by statute.*

Sec. 12. *A city council may exercise any power it has to the extent that the power is not expressly:*

1. *Denied by the Constitution of the State of Nevada;*

2. *Denied by the Constitution of the United States;*

3. *Denied by the laws of the State of Nevada; or*

4. *Granted to another entity.*

Sec. 13. *Except as expressly granted by statute, a city council shall not:*

1. *Condition or limit its civil liability ~~if~~ unless such condition or limitation is part of a legally executed contract or agreement between the city and another political subdivision or a private individual or business.*

2. *Prescribe the law governing civil actions between private persons.*

3. *Impose duties on another political subdivision ~~if~~ unless the performance of the duties is part of a legally executed agreement between the city and another political subdivision.*

4. *Impose a tax.*

5. ~~*Impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.*~~

~~6. *Impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for*~~ *the actual cost of providing the services.*

~~7. *Regulate conduct that is regulated by a state agency.*~~

~~8. *Invest money.*~~

~~9. *Order or conduct an election.*~~

Sec. 14. NRS 266.260 is hereby amended to read as follows:

266.260 1. When power is conferred upon the city council to do and perform any act or thing, and ~~the~~ *there is a constitutional or statutory provision requiring a specific manner for exercising the power, the city council wanting to exercise the power shall do so in that manner.*

2. *When power is conferred upon the city council to do and perform any act or thing, and there is no constitutional or statutory provision requiring a specific manner ~~of~~ for exercising the ~~same is not specifically pointed out.~~ power, the city council ~~may~~ wanting to exercise the power shall provide by ordinance the manner and details necessary for the full exercise of such power.*

Sec. 15. Chapter 268 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 20, inclusive, of this act.

Sec. 16. 1. The rule of law that any doubt as to the existence of a power of an incorporated city must be resolved against its existence is abrogated.

2. Any doubt as to the existence of a power of an incorporated city must be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.

Sec. 17. 1. The rule of law that an incorporated city can exercise only powers:

- (a) Expressly granted by statute;*
- (b) Necessarily or fairly implied in or incident to powers expressly granted; and*
- (c) Indispensable to the declared purposes of an incorporated city,*
~~is~~ *is abrogated.*

2. An incorporated city has:

- (a) All powers granted it by statute; and*
- (b) All other powers necessary or desirable in the conduct of city affairs, even though not granted by statute.*

Sec. 18. An incorporated city may exercise any power it has to the extent that the power is not expressly:

- 1. Denied by the Constitution of the State of Nevada;*
- 2. Denied by the Constitution of the United States;*
- 3. Denied by the laws of the State of Nevada; or*
- 4. Granted to another entity.*

Sec. 19. 1. If there is a constitutional or statutory provision requiring a specific manner for exercising a power, an incorporated city wanting to exercise the power shall do so in that manner.

2. If there is no constitutional or statutory provision requiring a specific manner for exercising a power, an incorporated city wanting to exercise the power shall adopt an ordinance prescribing the specific manner for exercising the power.

Sec. 20. Except as expressly granted by statute, an incorporated city shall not:

1. Condition or limit its civil liability ~~if~~ unless such condition or limitation is part of a legally executed contract or agreement between the city and another political subdivision or a private individual or business.

2. Prescribe the law governing civil actions between private persons.

3. Impose duties on another political subdivision ~~if~~ unless the performance of the duties is part of a legally executed agreement between the city and another political subdivision.

4. Impose a tax.

5. ~~Impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.~~

6. ~~Impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for~~ the actual cost of providing the services.

~~{7-}~~ **6. Regulate conduct that is regulated by a state agency.**~~{8. Invest money.~~~~9-}~~ **7. Order or conduct an election.****Sec. 21.** NRS 268.524 is hereby amended to read as follows:

268.524 **1.** It is the intent of the Legislature to authorize cities to finance, acquire, own, lease, improve and dispose of properties to:

~~{1-}~~ **(a)** Promote industry and employment and develop trade by inducing manufacturing, industrial, warehousing and other commercial enterprises and organizations for research and development to locate in, remain or expand in this State to further prosperity throughout the State and to further the use of the agricultural products and the natural resources of this State.

~~{2-}~~ **(b)** Enhance public safety by protecting hotels, motels, apartment buildings, casinos, office buildings and their occupants from fire.

~~{3-}~~ **(c)** Protect the health, safety and welfare of the public and promote private industry, commerce and employment in this State by:

~~{(a)}~~ **(1)** Reducing, abating or preventing pollution or removing or treating any substance in processed material which would cause pollution; and

~~{(b)}~~ **(2)** Furnishing energy, including electricity to the public, if available on reasonable demand, and providing facilities to transmit electricity for sale outside the State.

~~{4-}~~ **(d)** Promote the health of residents of the city by enabling a private enterprise to acquire, develop, expand and maintain health and care facilities and supplemental facilities for health and care facilities which will provide services of high quality to those residents at reasonable rates.

~~{5-}~~ **(e)** Promote the social welfare of the residents of the city by enabling corporations for public benefit to acquire, develop, expand and maintain facilities that provide services for those residents.

~~{6-}~~ **(f)** Promote the social welfare of the residents of the city by financing the acquisition, development, construction, improvement, expansion and maintenance of affordable housing in the city.

2. *It is expressly declared as the intent of the Legislature to grant an incorporated city the powers necessary for the effective operation of city government.*

Sec. 22. NRS 244.195 and 266.010 are hereby repealed.

Sec. 23. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

244.195 Other powers. The boards of county commissioners shall have power and jurisdiction in their respective counties to do and perform all such other acts and things as may be lawful and strictly necessary to the full discharge of the powers and jurisdiction conferred on the board.

266.010 Home rule granted; limitations. Subject to the right of the Legislature to create or alter the form of municipal organization by special act or charter, the right of home rule and self-government is hereby granted to the people of any city incorporated under the provisions of this chapter.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 338 to Senate Bill No. 385 addresses the specific exemptions set forth in the bill regarding local government powers by clarifying that legally executed contracts or agreements (such as interlocal agreements) relating to these exceptions would not be impacted and specifying that the exception relating to imposition of a service charge or user fee be "the actual cost of providing" the services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 405.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 226.

"SUMMARY—Revises provisions governing business entities. (BDR 7-528)"

"AN ACT relating to business entities; revising provisions governing the manner in which business entities send and receive notices and communications; providing that certain nonprofit entities are exempt from the requirement to obtain a state business license; revising provisions governing the information included in a certificate of change in the number of an authorized class or series of shares; revising provisions governing restrictions on transfers of stock; authorizing a stockholder of a corporation to designate a proxy to consent or dissent in writing to a corporate action; revising provisions governing notice of a meeting of stockholders of a corporation, certain transactions between certain domestic corporations and interested stockholders and the dissolution of a corporation; revising provisions governing indemnification and advancement of expenses by a corporation under certain circumstances; reducing the maximum amount of the fee for filing with the Secretary of State certain instruments authorizing an increase in the stock of a corporation; revising provisions governing corporate records; revising provisions governing corporations organized under the law of a different jurisdiction; revising provisions governing the rights of a judgment creditor to satisfy a judgment out of the debtor's ownership interest in certain business entities; revising provisions governing mergers ~~and~~ and conversions ~~and domestications~~ of certain business entities; revising provisions related to the right of dissent to certain corporate actions; revising provisions governing the time at which certain documents filed with the Secretary of State become effective; revising provisions governing business trusts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-11, 16-19, 24-26, 58, 64, 72, 78, 92-94 and 102 of this bill revise provisions governing corporate records and the manner in which business entities sign, deliver and receive notices and communications ~~to~~ include based on proposed changes to the Model Business Corporation Act

, the Uniform Electronic Transactions Act and the federal Electronic Signatures in Global and National Commerce Act which relate to electronic records and notices.

Section 12 of this bill clarifies that a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization under section 501(c) of the Internal Revenue Code is not required to obtain a state business license.

Existing law restricts mergers and certain other transactions between certain domestic corporations with 200 or more stockholders and any stockholder which has acquired a specified amount of stock. (NRS 78.411-78.444) Under existing law, the corporation is prohibited from engaging in such a transaction with the stockholder for 3 years after the stockholder acquired the specified amount of stock, unless certain actions are taken by the board of directors of the corporation before the stockholder acquires the stock. (NRS 78.438) After the 3-year period, any such merger or transaction between the corporation and the stockholder is prohibited unless: (1) certain actions are taken by the board of directors or other stockholders; or (2) certain requirements concerning the consideration received by the other stockholders are satisfied. (NRS 78.439-78.443) **Sections 14, 16 and 30-48** of this bill: (1) decrease the applicable period from 3 years to 2 years; (2) amend provisions governing the type of corporation to which the restrictions apply; (3) amend the requirements for the merger or other transaction between the corporation and the stockholder; (4) allow the articles of incorporation of the corporation to impose stricter requirements on such transactions; and (5) specify that the board of directors of a corporation to which the existing law is applicable may take certain actions to protect the interests of the corporation and its stockholders.

Existing law provides for an effective date of certain documents filed with the Secretary of State. (NRS 78.1955, 78.209, 78.380, 78.390, 78.403, 78.580, 78A.180, 82.346, 82.356, 82.371, 82.451, 86.201, 86.216, 86.221, 86.226, 86.541, 86.547, 87.460, 87A.240, 87A.605, 87A.630, 88.355, 88.360, 88.380, 88.595, 88A.250, 88A.420, 88A.740, 92A.240) **Sections 20, 21, 27-29, 49, 55, 59-62, 65-68, 70, 71, 73, 74, 76, 77, 79-81, 83, 87, 90, 91 and 98** of this bill provide for a time at which these documents become effective.

Existing law provides that a change in the authorized number of shares of a class or series of stock is not effective until the filing of a certificate of change in the Office of the Secretary of State. (NRS 78.209) **Section 21** of this bill provides that the information concerning the shares which is included in the certificate ~~is~~ **must be only the** information regarding the affected series or class of shares.

Section 22 of this bill revises provisions governing permissible restrictions on the transfer of stock of a corporation or on the amount of stock that may be owned by a person or group of persons by clarifying and specifically

~~authorizing~~ **delineating** certain additional restrictions on these transfers of stock.

Section 23 of this bill specifically authorizes a stockholder to designate a proxy to act for the stockholder in granting written consent or expressing written dissent to a corporate action.

Section 25 of this bill: (1) removes the requirement that the notice of a meeting of stockholders be signed by a corporate officer or certain other persons designated by the directors of the corporation; and (2) removes the requirement that notice of the annual meeting of stockholders state the purpose for which the meeting is called.

Existing law provides procedures for the dissolution of a corporation and provides that, upon dissolution, the board of directors become trustees with the power to take certain actions to wind up the business and affairs of the corporation. (NRS 78.575-78.595) **Section 49** of this bill: (1) authorizes the board of directors to condition the submission of the proposal for dissolution on any lawful basis; and (2) revises the requirements for providing notice to stockholders of the proposed dissolution by requiring such notice to be provided to all stockholders rather than only stockholders entitled to vote on the dissolution. **Section 51** of this bill provides that, in acting as trustees to wind up the affairs of the dissolved corporation, the directors have the same duties, and are entitled to the benefit of the same presumptions regarding the performance of those duties, as directors of a corporation. **Sections 63 and 102** repeal a provision of existing law which provides that lawsuits for debts owed by dissolved corporations must be filed in the name of the trustees and that those trustees are jointly and severally responsible for satisfying such debts from the property of the corporation in their possession. **Section 15** of this bill enacts a provision based on Delaware law which governs the liability of the stockholders of a dissolved corporation.

Existing law authorizes a corporation to indemnify and advance expenses to directors, officers, employees or agents of the corporation under certain circumstances. (NRS 78.7502, 78.751) This authority to indemnify and advance expenses does not affect other rights to which a person seeking indemnification or advancement of expenses is entitled under the articles of incorporation or the bylaws. (NRS 78.751) **Section 53** of this bill enacts a provision based on Delaware law which provides that a right to indemnification or the advancement of expenses under the articles of incorporation or the bylaws may not be eliminated or impaired by an amendment to the provision after the act or omission for which indemnification or advancement of expenses is sought, unless such elimination or impairment is authorized by the provision in effect at the time of the act or omission.

Existing law provides that the amount of the fee for filing articles of incorporation with the Secretary of State is based on the dollar amount of the total number of shares provided for in the articles of incorporation. (NRS 78.760) When a corporation increases the number of authorized shares,

the fee for filing that information with the Secretary of State is determined by subtracting the amount of the fee based on the increased number of shares from the amount of the fee based on the number of authorized shares excluding the increase. (NRS 78.765) The maximum amount of the fee for filing with the Secretary of State articles of incorporation or an instrument authorizing an increase in stock is: (1) \$35,000 for filing the original articles of incorporation; and (2) \$35,000 for filing an instrument authorizing an increase in stock. (NRS 78.760) **Section 54** of this bill reduces to \$34,925 the maximum amount of the fee for filing an instrument authorizing an increase in stock.

~~‡ Existing law requires a corporation organized under the laws of another jurisdiction to register with the Secretary of State before commencing or doing any business in this State. (NRS 80.010) Under existing law, certain activities are defined as not doing business in this State, thus exempting corporations engaging in those activities from the requirement to register with the Secretary of State or comply with certain other laws of this State. (NRS 80.015) However, notwithstanding this provision, a person who solicits business for the activities of a mortgage broker or a mortgage banker is deemed to be doing business in this State and required to register with the Secretary of State and comply with other existing laws. Section 56 of this bill provides that a person who engages in such activities in relation to a mortgage loan secured by commercial real property is exempt from these requirements.‡~~

Sections 52, 69, 75 and 82 of this bill revise provisions governing the satisfaction of a judgment against a stockholder, member of a limited-liability company or partner of a limited partnership from the interest of the stockholder, member or partner in the entity.

Existing law authorizes one or more persons to create a business trust by adopting a governing instrument and signing and filing a certificate of trust with the Secretary of State. (NRS 88A.210) **Sections 84-86, 88 and 89** of this bill revise provisions relating to the status of a business trust as an entity separate from its trustees and beneficial owners, the powers of a business trust with respect to property ownership and the duties and liabilities of trustees of a business trust.

Section 96 of this bill revises provisions governing mergers for which action is not required by the stockholders of the surviving domestic corporation.

Section 97 of this bill clarifies the provisions of existing law which are applicable to conversions of domestic entities or domestic general partnerships into foreign entities and to conversions of foreign entities or foreign general partnerships into domestic entities.

~~‡ Section 99 of this bill revises provisions relating to the domestication of certain business entities.‡~~

Under existing law, certain stockholders may dissent to certain corporate actions that will result in the receipt of money or scrip instead of a fraction of

a share and obtain payment of the fair value of the stockholder's shares. (NRS 78.205-78.207, 92A.380) **Section 100** of this bill clarifies that the right to obtain payment of the fair value of the shares relates only to the fraction of a share rather than all of the stockholder's shares. **Section 101** of this bill clarifies the proper district court in which an action to determine the fair value of the shares must be commenced.

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

Section 1. Title 7 is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in this title, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including, without limitation, delivery by hand, mail, commercial delivery and, if authorized in accordance with section 11 of this act, by electronic transmission.*

Sec. 4. *"Electronic" means relating to any technology, process or system having electrical, digital, magnetic, wireless, optical, electromagnetic or similar characteristics or qualities.*

Sec. 5. *"Electronic record" means information that is stored in an electronic or other medium and is retrievable in paper form through an automated process used in conventional commercial practice or, if authorized in accordance with subsection 8 of section 11 of this act, is otherwise retrievable in perceivable form.*

Sec. 6. *"Electronic transmission" or "electronically transmitted" means any form or process of communication not directly involving the physical transfer of paper or another tangible medium which:*

1. Is suitable for the retention, retrieval and reproduction of information by the recipient; and

2. Is retrievable and reproducible in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with subsection 8 of section 11 of this act.

Sec. 7. *"Record" means information that is inscribed on any tangible medium, including, without limitation, any writing or written instrument, or an electronic record.*

Sec. 8. *"Sign" or "signature" means with the present intent to authenticate or adopt a record or identify oneself:*

1. To execute or otherwise adopt a tangible symbol, name, word or mark, including, without limitation, any manual, facsimile or confirmed signature; or

2. To attach to or logically associate with an electronic transmission an electronic sound, symbol or process, including, without limitation, an electronic signature, in an electronic transmission.

Sec. 9. "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 10. "Writing" or "written" means any information in the form of a record.

Sec. 11. 1. Except as otherwise provided by specific statute:

(a) Any notice or other communication described in this title may be given or sent by any method of delivery; and

(b) An electronic transmission must be in accordance with this section.

2. A notice or other communication given or sent pursuant to the organic law or organic rules of an entity may be delivered by electronic transmission if:

(a) Consented to by the recipient or authorized by subsection 9; and

(b) The electronic transmission contains or is accompanied by information from which the recipient can determine the date of the transmission.

3. Any consent under subsection 2 may be revoked by the person who consented by written or electronic notice to the person to whom the consent was delivered. Any such consent is deemed revoked if:

(a) The person is unable to receive two consecutive electronic transmissions given by the entity or organization in accordance with such consent; and

(b) Such inability becomes known to the secretary of the entity sending the electronic transmissions or to the transfer agent or other person responsible for the giving of notice or other communications.

➡ The inadvertent failure to treat any such inability as a revocation does not invalidate any meeting or other action.

4. Unless otherwise agreed between sender and recipient, an electronic transmission is received when:

(a) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic transmissions or information of the type sent; and

(b) It is in a form ordinarily capable of being processed by that system.

5. Receipt of an electronic acknowledgment from an information processing system described in paragraph (a) of subsection 4 establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

6. An electronic transmission is received under this section even if no natural person is aware of its receipt.

7. Except as otherwise provided by specific statute, any notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

(a) If in a physical form, when it is left at:

(1) ~~[A stockholder's]~~ The address of a stockholder, member, partner or other owner of an entity, whichever is applicable, as it appears upon the records of the ~~[corporation's]~~ entity;

(2) ~~[A director's]~~ The residence or usual place of business ~~[f:]~~ of a director, manager or general partner, whichever is applicable;

(3) ~~The [corporation's]~~ entity's principal place of business; or

(4) If to a recipient other than a stockholder, director, member, partner or other owner of an entity or ~~[corporation]~~ an entity, such person's residence or usual place of business;

(b) If mailed by United States mail postage prepaid and correctly addressed to a stockholder, member, partner or other owner of an entity, upon deposit in the United ~~[State]~~ States mail;

(c) If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a stockholder, member, partner or other owner of an entity, the earliest of:

(1) If sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or

(2) Five days after it is deposited in the United States mail;

(d) If an electronic transmission, when it is received as provided in subsection 4; and

(e) If oral, when communicated.

↪ In the absence of fraud, an affidavit of the secretary of the entity or the transfer agent or any other agent of the entity that the notice has been given by a form of electronic transmission is prima facie evidence of the facts stated in the affidavit.

8. A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if:

(a) The electronic transmission is otherwise retrievable in perceivable form; and

(b) The sender and the recipient have consented in writing to the use of such form of electronic transmission.

9. If any provision of this title prescribes requirements for notices or other communication in particular circumstances, those requirements govern. If the organic rules of an entity prescribe requirements for notices or other communications, not inconsistent with this section or other provisions of this title, those requirements govern. The ~~[articles of incorporation or bylaws of a corporation]~~ organic rules of an entity may authorize, require or prohibit delivery of notices of meetings of directors, managers, members, partners or other owners of the entity by electronic transmission.

10. In the event that any provisions of this section are deemed to modify, limit or supersede the federal Electronic Signatures in Global and

National Commerce Act, 15 U.S.C. §§ 7001 et seq., the provisions of this section shall be deemed to control to the maximum extent permitted by section 102(a)(2) of that Act, 15 U.S.C. § 7002(a)(2).

11. As used in this section:

(a) *"Entity" has the meaning ascribed to it in NRS 77.060.*

(b) *"Organic law" has the meaning ascribed to it in NRS 77.170.*

(c) *"Organic rules" has the meaning ascribed to it in NRS 77.180.*

Sec. 12. NRS 76.100 is hereby amended to read as follows:

76.100 1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of the place or places of business;

(c) Be accompanied by a fee in the amount of \$100; and

(d) Include any other information that the Secretary of State deems necessary.

➡ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

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 this chapter, 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 this title, other than a business organized pursuant to ~~chapter~~ :

(1) *Chapter 82 or 84 of NRS; or*

(2) *Chapter 81 if the business is a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).*

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

(c) Has a registered agent in this State; or

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

7. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 13. Chapter 78 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. *"Publicly traded corporation" means a domestic corporation that has a class or series of voting shares which is:*

1. *A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. § 77r(b)(1)(A) or (B), as amended; or*

2. *Traded in an organized market and that has at least 2,000 stockholders and a market value of at least \$20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial stockholders owning more than 10 percent of such shares.*

Sec. 15. 1. *A stockholder of a corporation dissolved pursuant to NRS 78.580 or whose period of corporate existence has expired, the assets of which were distributed pursuant to NRS 78.590, is not liable for any claim against the corporation in an amount in excess of such stockholder's pro rata share of the claim or the amount so distributed to such stockholder, whichever is less.*

2. *A stockholder of a corporation dissolved pursuant to NRS 78.580 or whose period of corporate existence has expired, the assets of which were distributed pursuant to NRS 78.590, is not liable for any claim against the corporation on which an action, suit or proceeding is not begun before the expiration of the period described in NRS 78.585.*

3. *The aggregate liability of any stockholder of a corporation dissolved pursuant to NRS 78.580 or whose period of corporate existence has expired for claims against such corporation must not exceed the amount distributed to such stockholder pursuant to NRS 78.590.*

Sec. 16. NRS 78.010 is hereby amended to read as follows:

78.010 1. As used in this chapter:

(a) "Approval" and "vote" as describing action by the directors or stockholders mean the vote of directors in person or by written consent or of stockholders in person, by proxy or by written consent.

(b) "Articles," "articles of incorporation" and "certificate of incorporation" are synonymous terms and, unless the context otherwise requires, include all certificates filed pursuant to NRS 78.030, 78.180, 78.185, 78.1955, 78.209, 78.380, 78.385, 78.390, 78.725 and 78.730 and any articles of merger, conversion, exchange or domestication filed pursuant to NRS 92A.200 to 92A.240, inclusive, or 92A.270. Unless the context otherwise requires, these terms include restated articles and certificates of incorporation.

(c) "Directors" and "trustees" are synonymous terms.

(d) "Entity" means a foreign or domestic:

(1) Corporation, whether or not for profit;

(2) Limited-liability company;

(3) Limited partnership; or

(4) Business trust.

~~{(d)}~~ (e) "Principal office" means the office, in or out of this State, where the principal executive offices of a domestic or foreign corporation are located.

~~{(e)}~~ (f) "Receiver" includes receivers and trustees appointed by a court as provided in this chapter or in chapter 32 of NRS.

~~{(f)}~~ "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.}

(g) "Registered agent" has the meaning ascribed to it in NRS 77.230.

(h) "Registered office" means the office maintained at the street address of the registered agent.

(i) ~~{(i)}~~ "Sign" means to affix a signature to a record.

~~{(j)}~~ "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself or herself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

~~{(k)}~~ "Stockholder of record" means a person whose name appears on the stock ledger of the corporation.

~~{(l)}~~ "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.}

2. General terms and powers given in this chapter are not restricted by the use of special terms, or by any grant of special powers contained in this chapter.

Sec. 17. NRS 78.0297 is hereby amended to read as follows:

78.0297 1. Except as otherwise ~~{provided}~~ **required** by federal or state law, any records maintained by a corporation in its regular course of business, including, without limitation, its stock ledger, *minute books*, books of account and ~~{minute books.}~~ **financial records**, may be kept on, **or** by means of , ~~{or be in the form of,}~~ any information processing system or other

information storage device or medium ~~{-}~~ , *or in the form of an electronic record.*

2. A corporation shall convert within a reasonable time any *electronic* records ~~{kept in the manner described in subsection 1}~~ into clear and legible paper form upon the request of any person entitled to inspect the records maintained by the corporation pursuant to any provision of this chapter.

3. A clear and legible paper form produced from *electronic* records ~~{kept in the manner described in subsection 1}~~ is admissible in evidence and accepted for all other purposes to the same extent as an original paper record with the same information provided that the paper form portrays the record accurately.

Sec. 18. NRS 78.0298 is hereby amended to read as follows:

78.0298 ~~{-}~~ No record or signature maintained by a corporation is required to be created, generated, sent, communicated, received, stored or otherwise processed or used by electronic means or in electronic form.

~~{2. The corporation may refuse to accept or conduct any transaction or create, generate, send, communicate, receive, store or otherwise process, use or accept any record or signature by electronic means or in electronic form.}~~

Sec. 19. NRS 78.090 is hereby amended to read as follows:

78.090 1. Every corporation must have a registered agent who resides or is located in this State. Notwithstanding the provisions of NRS 77.300, each registered agent must have a street address for receiving service of process, which is the registered office of the corporation in this State. If the registered agent is in the business of acting as a registered agent for more than one business entity, the physical street address of the registered office must be in a location for which such use is not prohibited by any local ordinance. The registered agent may have a separate mailing address such as a post office box, which may be different from the street address.

2. If the registered agent is a bank or corporation, it may:

(a) Act as the fiscal or transfer agent of any state, municipality, body politic or corporation and in that capacity may receive and disburse money.

(b) Transfer, register and countersign certificates of stock, bonds or other evidences of indebtedness and act as agent of any corporation, foreign or domestic, for any purpose required by statute, or otherwise.

(c) Act as trustee under any mortgage or bond issued by any municipality, body politic or corporation, and accept and execute any other municipal or corporate trust not inconsistent with the laws of this State.

(d) Receive and manage any sinking fund of any corporation, upon such terms as may be agreed upon between the corporation and those dealing with it.

3. Every corporation organized pursuant to this chapter which fails or refuses to comply with the requirements of this section is subject to a fine of not less than \$100 nor more than \$500, to be recovered with costs by the State, before any court of competent jurisdiction, by action at law prosecuted

by the Attorney General or by the district attorney of the county in which the action or proceeding to recover the fine is prosecuted.

4. All legal process and any demand , ~~for~~ notice *or communication* authorized by law to be served upon , *or delivered to*, a corporation may be served upon , *or delivered to*, the registered agent of the corporation in the manner provided in subsection 2 of NRS 14.020. If any demand, notice , *communication* or legal process, other than a summons and complaint, cannot be served upon , *or delivered to*, the registered agent, it may be served *or delivered* in the manner provided in NRS 14.030. These manners and modes of service *or delivery* are in addition to any other *manner and mode of service or delivery* authorized by law.

Sec. 20. NRS 78.1955 is hereby amended to read as follows:

78.1955 1. If the voting powers, designations, preferences, limitations, restrictions and relative rights of any class or series of stock have been established by a resolution of the board of directors pursuant to a provision in the articles of incorporation, a certificate of designation setting forth the resolution and stating the number of shares for each designation must be signed by an officer of the corporation and filed with the Secretary of State. A certificate of designation signed and filed pursuant to this section must become effective before the issuance of any shares of the class or series.

2. Unless otherwise provided in the articles of incorporation or the certificate of designation being amended, if no shares of a class or series of stock established by a resolution of the board of directors have been issued, the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series may be amended by a resolution of the board of directors pursuant to a certificate of amendment filed in the manner provided in subsection 4.

3. Unless otherwise provided in the articles of incorporation or the certificate of designation, if shares of a class or series of stock established by a resolution of the board of directors have been issued, the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series may be amended by a resolution of the board of directors only if the amendment is approved as provided in this subsection. Unless otherwise provided in the articles of incorporation or the certificate of designation, the proposed amendment adopted by the board of directors must be approved by the vote of stockholders holding shares in the corporation entitling them to exercise a majority of the voting power, or such greater proportion of the voting power as may be required by the articles of incorporation or the certificate of designation, of:

- (a) The class or series of stock being amended; and
- (b) Each class and each series of stock which, before amendment, is senior to the class or series being amended as to the payment of distributions upon

dissolution of the corporation, regardless of any limitations or restrictions on the voting power of that class or series.

4. A certificate of amendment to a certificate of designation must be signed by an officer of the corporation and filed with the Secretary of State and must:

(a) Set forth the original designation and the new designation, if the designation of the class or series is being amended;

(b) State that no shares of the class or series have been issued or state that the approval of the stockholders required pursuant to subsection 3 has been obtained; and

(c) Set forth the amendment to the class or series or set forth the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series, as amended.

5. A certificate filed pursuant to subsection 1 or 4 is effective ~~upon~~ **at the time of the filing of** the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which date must not be more than 90 days after the **date on which the** certificate is filed. ***If a certificate filed pursuant to subsection 1 or 4 specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

6. If shares of a class or series of stock established by a certificate of designation are not outstanding, the corporation may file a certificate which states that no shares of the class or series are outstanding and which contains the resolution of the board of directors authorizing the withdrawal of the certificate of designation establishing the class or series of stock. The certificate must identify the date and certificate of designation being withdrawn and must be signed by an officer of the corporation and filed with the Secretary of State. Upon filing the certificate and payment of the fee required pursuant to NRS 78.765, all matters contained in the certificate of designation regarding the class or series of stock are eliminated from the articles of incorporation.

7. NRS 78.380, 78.385 and 78.390 do not apply to certificates of amendment filed pursuant to this section.

Sec. 21. NRS 78.209 is hereby amended to read as follows:

78.209 1. A change pursuant to NRS 78.207 is not effective until after the filing in the Office of the Secretary of State of a certificate, signed by an officer of the corporation, setting forth:

(a) The ~~current~~ number of authorized shares and the par value, if any, of each **affected** class or **, if applicable, each affected** series ~~[, if any,]~~ of shares before the change;

(b) The number of authorized shares and the par value, if any, of each **affected** class or **, if applicable, each affected** series ~~[, if any,]~~ of shares after the change;

(c) The number of shares of each affected class or , ***if applicable, each affected*** series ~~[-, if any,]~~ to be issued after the change in exchange for each issued share of the same class or series;

(d) The provisions, if any, for the issuance of fractional shares, or for the payment of money or the issuance of scrip to stockholders otherwise entitled to a fraction of a share and the percentage of outstanding shares affected thereby; and

(e) That any required approval of the stockholders has been obtained.

➤ The provisions in the articles of incorporation of the corporation regarding the authorized number and par value, if any, of the changed class or , ***if applicable, the changed*** series ~~[-, if any,]~~ of shares shall be deemed amended as provided in the certificate at the effective date and time of the change.

2. Unless an increase or decrease of the number of authorized shares pursuant to NRS 78.207 is accomplished by an action that otherwise requires an amendment to the articles of incorporation of the corporation, such an amendment is not required by that section.

3. A certificate filed pursuant to subsection 1 is effective ~~upon~~ ***at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

4. If a certificate filed pursuant to subsection 1 specifies ~~an~~ ***a later*** effective date, the board of directors may terminate the effectiveness of the certificate by resolution. A certificate of termination must:

(a) Be filed with the Secretary of State before the effective date specified in the certificate filed pursuant to subsection 1;

(b) Identify the certificate being terminated;

(c) State that the effectiveness of the certificate has been terminated;

(d) Be signed by an officer of the corporation; and

(e) Be accompanied by the fee required pursuant to NRS 78.765.

Sec. 22. NRS 78.242 is hereby amended to read as follows:

78.242 1. Subject to the limitation imposed by NRS 104.8204, a written restriction on the transfer or registration of transfer of the stock of a corporation, if permitted by this section, may be enforced against the holder of the restricted stock or any successor or transferee of the holder, including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder.

2. A restriction on the transfer or registration of transfer of the stock of a corporation , ***or on the amount of a corporation's stock that may be owned by a person or group of persons,*** may be imposed by the articles of incorporation or by the bylaws or by an agreement among any number of stockholders or between ***or among*** one or more stockholders and the corporation. No restriction so imposed is binding ***upon any stockholder*** with

respect to ~~{stocks issued before the adoption of the restriction unless the stockholders are parties to an}~~ ***the shares of stock owned by such stockholder at the time the restriction is adopted, regardless of any later effective time of such restriction, unless such stockholder is a party to the agreement or voted in favor of the restriction.***

3. A restriction on the transfer or the registration of transfer of shares is valid and enforceable against the transferee of the stockholder if the restriction is not prohibited by other law and its existence is noted conspicuously on the front or back of the stock certificate or is contained in the statement of information required by NRS 78.235. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

4. A restriction on the transfer or registration of transfer of ***the*** stock of a corporation ***or on the amount of such stock that may be owned by any person or group of persons*** is permitted, without limitation by this enumeration, if it:

(a) Obligates the stockholder first to offer to the corporation or to any other stockholder or stockholders of the corporation or to any other person or persons or to any combination of the foregoing a prior opportunity, to be exercised within a reasonable time, to acquire the stock;

(b) Obligates the corporation or any ~~{holder of stock}~~ ***stockholder*** of the corporation or any other person or any combination of the foregoing to purchase stock which is the subject of an agreement respecting the purchase and sale of the stock;

(c) Requires the corporation or any stockholder or stockholders to ~~{consent}~~ :

(1) ***Consent*** to any proposed transfer of the stock ~~{or to approve}~~ ;

(2) ***Approve*** the proposed transferee of stock ~~{}~~ ; ***or***

(3) ***Approve the amount of stock of the corporation proposed to be acquired by any person or group of persons;***

(d) Prohibits ***or restricts*** the transfer of the stock to , ***or the ownership of stock by***, designated persons or classes of persons, and such designation is not manifestly unreasonable; or

(e) Prohibits ***or restricts*** the transfer ***or registration of transfer of the*** stock ~~{}~~ ***or the amount of stock of a corporation that may be owned by a person or group of persons, for any of the following purposes:***

(1) To maintain the corporation's status when it is dependent on the number or identity of its stockholders ~~{}~~ , ***including, without limitation, the corporation's status as an electing small business corporation under subchapter S of chapter 1 of subtitle A of the United States Internal Revenue Code, 26 U.S.C. § 1371 et seq., as amended, or any successor provision;***

(2) To ***maintain or preserve the corporation's status or*** exemptions under federal or state laws governing taxes or securities, including, without limitation, the qualification of the corporation as a real estate investment trust

pursuant to 26 U.S.C. §§ 856 et seq., as amended, or any successor provision, and any regulations adopted pursuant thereto; ~~for~~

(3) *To maintain or preserve any other local, state, federal or foreign tax advantage to, or attribute of, the corporation or its stockholders, including, without limitation, net operating losses;*

(4) *To maintain any statutory or regulatory advantage or to comply with any statutory or regulatory requirements under applicable local, state, federal or foreign law; or*

(5) For any other reasonable purpose.

5. For the purposes of this section, "stock" includes a security convertible into or carrying ~~for~~ **an option or other** right to subscribe for or to acquire stock.

Sec. 23. NRS 78.355 is hereby amended to read as follows:

78.355 1. ~~{At any meeting of the stockholders of any corporation any}~~ **Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting** may ~~{designate}~~ **authorize** another person or persons to act ~~{as a}~~ **for such stockholder by proxy** . ~~{or proxies.}~~ If any stockholder designates two or more persons to act as proxies, a majority of those persons present at the meeting ~~{or a majority of those persons granting consent or exercising a right of dissent in writing,~~ or, if only one is present ~~{or consenting or dissenting in writing,~~ then that one has and may exercise all of the powers conferred by the stockholder upon all of the persons so designated unless the stockholder provides otherwise. **The proxy may be limited to action on designated matters.**

2. Without limiting the manner in which a stockholder may authorize another person or persons to act for him or her as proxy pursuant to subsection 1, ~~{the following constitute valid means by which a stockholder may grant such authority:~~

(a) ~~A}~~ **a** stockholder may sign a writing authorizing another person or persons to act for him or her as proxy. ~~{The proxy may be limited to action on designated matters.~~

(b) ~~A stockholder may authorize another person or persons to act for him or her as proxy by transmitting or authorizing the transmission of an electronic record to the person who will be the holder of the proxy or to a firm which solicits proxies or like agent who is authorized by the person who will be the holder of the proxy to receive the transmission. Any such electronic record must either set forth or be submitted with information from which it can be determined that the electronic record was authorized by the stockholder. If it is determined that the electronic record is valid, the persons appointed by the corporation to count the votes of stockholders and determine the validity of proxies and ballots or other persons making those determinations must specify the information upon which they relied.}~~

3. Any copy, communication by electronic transmission or other reliable reproduction of the ~~{record}~~ **writing** created pursuant to subsection 2 may be

substituted for the original ~~{record}~~ **writing** for any purpose for which the original ~~{record}~~ **writing** could be used, if the copy, communication by electronic transmission or other reproduction is a complete reproduction of the entire original ~~{record}~~ **writing**.

4. Except as otherwise provided in subsection 5, no such proxy is valid after the expiration of 6 months from the date of its creation unless the stockholder specifies in it the length of time for which it is to continue in force, which may not exceed 7 years from the date of its creation. Subject to these restrictions, any proxy properly created is not revoked and continues in full force and effect until:

(a) Another instrument or transmission revoking it or a properly created proxy bearing a later date is filed with or transmitted to the secretary of the corporation or another person or persons appointed by the corporation to count the votes of stockholders and determine the validity of proxies and ballots; or

(b) ~~{The}~~ ***In the case of a meeting of stockholders, the*** stockholder revokes the proxy by attending the meeting and voting the stockholder's shares in person, in which case, any vote cast by the person or persons designated by the stockholder to act as a proxy or proxies must be disregarded by the corporation when the votes are counted.

5. A proxy shall be deemed irrevocable if the written authorization states that the proxy is irrevocable, but is irrevocable only for as long as it is coupled with an interest sufficient in law to support an irrevocable power, including, without limitation, the appointment as proxy of a pledgee, a person who purchased or agreed to purchase the shares, a creditor of the corporation who extended it credit under terms requiring the appointment, an employee of the corporation whose employment contract requires the appointment or a party to a voting agreement created pursuant to subsection 3 of NRS 78.365. Unless otherwise provided in the proxy, a proxy made irrevocable pursuant to this subsection is revoked when the interest with which it is coupled is extinguished, but the corporation may honor the proxy until notice of the extinguishment of the proxy is received by the corporation. A transferee for value of shares subject to an irrevocable proxy may revoke the proxy if the transferee did not know of its existence when the transferee acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

6. If any stockholder subject to a properly created irrevocable proxy attends any meeting of the stockholders ***or attempts to grant a consent or exercise a right of dissent*** for which the authorization grants authority to act on the stockholder's behalf at the meeting , ***or in granting a consent or exercising a right of dissent, as applicable,*** to a proxy or proxies, unless expressly otherwise provided in the written authorization or electronic record:

(a) Only the proxy or proxies may have and exercise all the powers of the stockholder at the meeting ~~{}~~ **or in granting a consent or exercising a right of dissent, as applicable;** and

(b) Only a vote , **consent or dissent, as applicable,** of the proxy or proxies may be regarded **as valid** by the corporation . ~~{when the votes are counted.}~~

Sec. 24. NRS 78.360 is hereby amended to read as follows:

78.360 1. The articles of incorporation of any corporation may provide that at all elections of directors of the corporation each holder of stock possessing voting power is entitled to as many votes as equal the number of his or her shares of stock multiplied by the number of directors to be elected, and that the holder of stock may cast all of his or her votes for a single director or may distribute them among the number to be voted for or any two or more of them, as the holder of stock may see fit. To exercise the right of cumulative voting, one or more of the stockholders requesting cumulative voting must give written notice to the president or secretary of the corporation that the stockholder desires that the voting for the election of directors be cumulative.

2. The notice must be ~~{given}~~ **delivered** not less than 48 hours before the time fixed for holding the meeting, if notice of the meeting has been ~~{given}~~ **delivered** at least 10 days before the date of the meeting, and otherwise not less than 24 hours before the meeting. At the meeting, before the commencement of voting for the election of directors, an announcement of the ~~{giving}~~ **delivery** of the notice must be made by the chairman or the secretary of the meeting or by or on behalf of the stockholder ~~{giving}~~ **delivering** the notice. Notice to stockholders of the requirement of this subsection must be contained in the notice calling the meeting or in the proxy material accompanying the notice.

Sec. 25. NRS 78.370 is hereby amended to read as follows:

78.370 1. If under the provisions of this chapter stockholders are required or authorized to take any action at a meeting, the notice of the meeting must be in writing . ~~{and signed by the president or a vice president, or the secretary or an assistant secretary, or by such other natural person or persons as the bylaws may prescribe or permit or the directors may designate.}~~

2. ~~{The}~~ **Except in the case of the annual meeting, the** notice must state the purpose or purposes for which the meeting is called . ~~{}~~ **In all instances, the notice must state** the time when, and the place, which may be within or without this State, where ~~{it}~~ **the meeting** is to be held, and the means of electronic communications, if any, by which stockholders and proxies shall be deemed to be present in person and vote.

3. A copy of the notice must be delivered personally, mailed postage prepaid or ~~{given}~~ **delivered** as provided in ~~{subsection 8}~~ **section 11 of this act** to each stockholder of record entitled to vote at the meeting not less than 10 nor more than 60 days before the meeting. If mailed, it must be directed to the stockholder at his or her address as it appears upon the records of the

corporation . ~~[, and upon the mailing of any such notice the service thereof is complete, and the time of the notice begins to run from the date upon which the notice is deposited in the mail for transmission to the stockholder.]~~ Personal delivery of any such notice to any officer of a corporation or association, to any member of a limited-liability company managed by its members, to any manager of a limited-liability company managed by managers, to any general partner of a partnership or to any trustee of a trust constitutes delivery of the notice to the corporation, association, limited-liability company, partnership or trust.

4. The articles of incorporation or the bylaws may require that the notice be also published in one or more newspapers.

5. Notice delivered or mailed to a stockholder in accordance with the provisions of this section ~~and~~ **section 11 of this act** and the provisions, if any, of the articles of incorporation or the bylaws is sufficient, and in the event of the transfer of the stockholder's stock after such delivery or mailing and before the holding of the meeting it is not necessary to deliver or mail notice of the meeting to the transferee.

6. Unless otherwise provided in the articles of incorporation or the bylaws, if notice is required to be ~~{given,}~~ **delivered**, under any provision of this chapter or the articles of incorporation or bylaws of any corporation, to any stockholder to whom:

(a) Notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to the stockholder during the period between those two consecutive annual meetings; or

(b) All, and at least two, payments sent by first-class mail of dividends or interest on securities during a 12-month period,

➡ have been mailed addressed to the stockholder at his or her address as shown on the records of the corporation and have been returned undeliverable, the ~~{giving}~~ **delivery** of further notices to the stockholder is not required. Any action or meeting taken or held without notice to such a stockholder has the same effect as if the notice had been ~~{given,}~~ **delivered**. If any such stockholder delivers to the corporation a written notice setting forth his or her current address, the requirement that notice be ~~{given,}~~ **delivered** to the stockholder is reinstated. If the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this chapter, the certificate need not state that notice was not ~~{given,}~~ **delivered** to persons to whom notice was not required to be ~~{given,}~~ **delivered** pursuant to this subsection. The ~~{giving}~~ **delivery** of further notices to a stockholder is still required for any notice returned as undeliverable if the notice was ~~{given,}~~ **delivered** by electronic transmission.

7. Unless the articles of incorporation or bylaws otherwise require, and except as otherwise provided in this subsection, if a stockholders' meeting is adjourned to another date, time or place, notice need not be ~~{given,}~~ **delivered** of the date, time or place of the adjourned meeting if they are announced at

the meeting at which the adjournment is taken. If a new record date is fixed for the adjourned meeting, notice of the adjourned meeting must be ~~{given}~~ **delivered** to each stockholder of record as of the new record date.

~~{8. Any notice to stockholders given by the corporation pursuant to any provision of this chapter, chapter 92A of NRS, the articles of incorporation or the bylaws is effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. The consent is revocable by the stockholder by written notice to the corporation. The consent is revoked if:~~

~~(a) The corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with the consent; and~~

~~(b) The inability to deliver by electronic transmission becomes known to the secretary, assistant secretary, transfer agent or other agent of the corporation responsible for the giving of notice. However, the inadvertent failure to treat the inability to deliver a notice by electronic transmission as a revocation does not invalidate any meeting or other action.~~

~~9. Notice given pursuant to subsection 8 shall be deemed given if:~~

~~(a) By facsimile machine, when directed to a number at which the stockholder has consented to receive notice;~~

~~(b) By electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;~~

~~(c) By a posting on an electronic network together with separate notice to the stockholder of the specific posting, upon the later of:~~

~~(1) Such posting; and~~

~~(2) The giving of the separate notice; and~~

~~(d) By any other form of electronic transmission, when directed to the stockholder.~~

~~➔ In the absence of fraud, an affidavit of the secretary, assistant secretary, transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission is prima facie evidence of the facts stated in the affidavit.~~

~~10. As used in this section, "electronic transmission" means any form of communication not directly involving the physical transmission of paper that:~~

~~(a) Creates a record that may be retained, retrieved and reviewed by a recipient of the communication; and~~

~~(b) May be directly reproduced in paper form by the recipient through an automated process.}~~

Sec. 26. NRS 78.375 is hereby amended to read as follows:

78.375 Whenever any notice ~~{whatever}~~ **or other communication** is required to be ~~{given}~~ **delivered** under the provisions of this chapter, a waiver thereof in a signed writing ~~{or by transmission of an electronic record}~~ by the person or persons entitled to the notice ~~{}~~ **or communication**, whether before or after the time stated therein, shall be deemed equivalent thereto.

Sec. 27. NRS 78.380 is hereby amended to read as follows:

78.380 1. At least two-thirds of the incorporators or of the board of directors of any corporation, if no voting stock of the corporation has been issued, may amend the articles of incorporation of the corporation by signing and filing with the Secretary of State a certificate amending, modifying, changing or altering the articles, in whole or in part. The certificate must state that:

(a) The signers thereof are at least two-thirds of the incorporators or of the board of directors of the corporation, and state the name of the corporation; and

(b) As of the date of the certificate, no voting stock of the corporation has been issued.

2. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the*** filing of the certificate with the Secretary of State or upon a later date ***and time as*** specified in the certificate, which ***date*** must not be more than 90 days after the ***date on which the*** certificate is filed. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

3. If a certificate specifies ~~an~~ ***a later*** effective date and if no voting stock of the corporation has been issued, the board of directors may terminate the effectiveness of a certificate by filing a certificate of termination with the Secretary of State that:

(a) ***Is filed before the effective date specified in the certificate filed with the Secretary of State pursuant to subsection 1;***

~~(b)~~ Identifies the certificate being terminated;

~~(b)~~ ~~(c)~~ States that no voting stock of the corporation has been issued;

~~(c)~~ ~~(d)~~ States that the effectiveness of the certificate has been terminated;

~~(d)~~ ~~(e)~~ Is signed by at least two-thirds of the board of directors of the corporation; and

~~(e)~~ ~~(f)~~ Is accompanied by the fee required pursuant to NRS 78.765.

4. This section does not permit the insertion of any matter not in conformity with this chapter.

Sec. 28. NRS 78.390 is hereby amended to read as follows:

78.390 1. Except as otherwise provided in NRS 77.340, every amendment to the articles of incorporation must be made in the following manner:

(a) The board of directors must adopt a resolution setting forth the amendment proposed and either call a special meeting of the stockholders entitled to vote on the amendment or direct that the proposed amendment be considered at the next annual meeting of the stockholders entitled to vote on the amendment.

(b) At the meeting, of which notice must be given to each stockholder entitled to vote pursuant to the provisions of this section, a vote of the stockholders entitled to vote in person or by proxy must be taken for and

against the proposed amendment. If it appears upon the canvassing of the votes that stockholders holding shares in the corporation entitling them to exercise at least a majority of the voting power, or such greater proportion of the voting power as may be required in the case of a vote by classes or series, as provided in subsections 2 and 4, or as may be required by the provisions of the articles of incorporation, have voted in favor of the amendment, an officer of the corporation shall sign a certificate setting forth the amendment, or setting forth the articles of incorporation as amended, and the vote by which the amendment was adopted.

(c) The certificate so signed must be filed with the Secretary of State.

2. Except as otherwise provided in this subsection, if any proposed amendment would adversely alter or change any preference or any relative or other right given to any class or series of outstanding shares, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series adversely affected by the amendment regardless of limitations or restrictions on the voting power thereof. The amendment does not have to be approved by the vote of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the amendment if the articles of incorporation specifically deny the right to vote on such an amendment.

3. Provision may be made in the articles of incorporation requiring, in the case of any specified amendments, a larger proportion of the voting power of stockholders than that required by this section.

4. Different series of the same class of shares do not constitute different classes of shares for the purpose of voting by classes except when the series is adversely affected by an amendment in a different manner than other series of the same class.

5. The resolution of the stockholders approving the proposed amendment may provide that at any time before the effective date of the amendment, notwithstanding approval of the proposed amendment by the stockholders, the board of directors may, by resolution, abandon the proposed amendment without further action by the stockholders.

6. A certificate filed pursuant to subsection 1 is effective ~~upon~~ ***at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

7. If a certificate filed pursuant to subsection 1 specifies ~~an~~ ***a later*** effective date and if the resolution of the stockholders approving the proposed amendment provides that the board of directors may abandon the proposed amendment pursuant to subsection 5, the board of directors may

terminate the effectiveness of the certificate by resolution and by filing a certificate of termination with the Secretary of State that:

- (a) Is filed before the effective date specified in the certificate filed **with the Secretary of State** pursuant to subsection 1;
- (b) Identifies the certificate being terminated;
- (c) States that, pursuant to the resolution of the stockholders, the board of directors is authorized to terminate the effectiveness of the certificate;
- (d) States that the effectiveness of the certificate has been terminated;
- (e) Is signed by an officer of the corporation; and
- (f) Is accompanied by a filing fee of \$175.

Sec. 29. NRS 78.403 is hereby amended to read as follows:

78.403 1. A corporation may restate, or amend and restate, in a single certificate the entire text of its articles of incorporation as amended by filing with the Secretary of State a certificate in the manner provided in this section. If the certificate alters or amends the articles in any manner, it must comply with the provisions of NRS 78.380, 78.385 and 78.390, as applicable.

2. If the certificate does not alter or amend the articles, it must be signed by an officer of the corporation and state that the officer has been authorized to sign the certificate by resolution of the board of directors adopted on the date stated, and that the certificate correctly sets forth the text of the articles of incorporation as amended to the date of the certificate.

3. The following may be omitted from the restated articles:

- (a) The names, addresses, signatures and acknowledgments of the incorporators;
- (b) The names and addresses of the members of the past and present boards of directors; and
- (c) The information required pursuant to NRS 77.310.

4. Whenever a corporation is required to file a certified copy of its articles, in lieu thereof it may file a certified copy of the most recent certificate restating its articles as amended, subject to the provisions of subsection 2, together with certified copies of all certificates of amendment filed subsequent to the restated articles and certified copies of all certificates supplementary to the original articles.

5. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 30. NRS 78.411 is hereby amended to read as follows:

78.411 As used in NRS 78.411 to 78.444, inclusive, ***and section 14 of this act***, unless the context otherwise requires, the words and terms defined in NRS 78.412 to 78.432, inclusive, ***and section 14 of this act*** have the meanings ascribed to them in those sections.

Sec. 31. NRS 78.413 is hereby amended to read as follows:

78.413 "Associate," when used to indicate a relationship with any person, means:

1. Any corporation or organization of which that person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of voting shares;

2. Any trust or other estate in which that person has a substantial beneficial interest or as to which that person serves as trustee or in a similar fiduciary capacity; and

3. Any relative or spouse of that person, or any relative of the spouse, who has ~~[the same home as]~~ **a common principal residence with** that person.

Sec. 32. NRS 78.414 is hereby amended to read as follows:

78.414 "Beneficial owner," when used with respect to any shares, means a person that:

1. Individually or with or through any of its affiliates or associates, ~~[beneficially owns the shares, directly or indirectly;]~~ **possesses:**

(a) Voting power over the shares, including, without limitation, the power to vote, or to direct the voting of, the shares; or

(b) Investment power over the shares, including, without limitation, the power to dispose, or to direct the disposition, of the shares,

↪ under any agreement, arrangement or understanding, whether or not in writing, but a person is not considered the beneficial owner of any shares under this subsection if the power to vote, or to direct the voting of, the shares arises solely from a revocable proxy or consent given in response to a solicitation made in accordance with the applicable regulations under the Securities Exchange Act and is not then reportable on a Schedule 13D under the Securities Exchange Act or any comparable or successor report;

2. Individually or with or through any of its affiliates or associates, ~~has~~ **(a) The** ~~the~~ right to acquire the shares, whether the right is exercisable immediately or only after the passage of time, under any agreement, arrangement or understanding, whether or not in writing, or upon the exercise of rights to convert or exchange, warrants or options, or otherwise, but a person is not considered the beneficial owner of shares tendered under an offer for a tender or exchange made by the person or any of ~~[his or her]~~ **the person's** affiliates or associates until the tendered shares are accepted for purchase or exchange; or

~~[(b) The right to vote the shares under any agreement, arrangement or understanding, whether or not in writing, but a person is not considered the beneficial owner of any shares under this paragraph if the agreement, arrangement or understanding to vote the shares arises solely from a revocable proxy or consent given in response to a solicitation made in accordance with the applicable regulations under the Securities Exchange Act and is not then reportable on a Schedule 13D under the Securities Exchange Act, or any comparable or successor report; or]~~

3. Has any agreement, arrangement or understanding, whether or not in writing, for the purpose of acquiring, holding, voting, except voting under a revocable proxy or consent as described in ~~{paragraph (b) of~~ subsection ~~{2,}~~ **1**, or disposing of the shares with any other person who beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the shares.

Sec. 33. NRS 78.416 is hereby amended to read as follows:

78.416 "Combination," when used in reference to any resident domestic corporation and any interested stockholder of the resident domestic corporation, means any of the following:

1. Any merger or consolidation of the resident domestic corporation or any subsidiary of the resident domestic corporation with:

(a) The interested stockholder; or

(b) Any other ~~{corporation,}~~ **entity**, whether or not itself an interested stockholder of the resident domestic corporation, which is, or after **and as a result of** the merger or consolidation would be, an affiliate or associate of the interested stockholder.

2. Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, to or with the interested stockholder or any affiliate or associate of the interested stockholder of assets of the resident domestic corporation or any subsidiary of the resident domestic corporation:

(a) Having an aggregate market value equal to **more than 5 percent** ~~{or more}~~ of the aggregate market value of all the assets, determined on a consolidated basis, of the resident domestic corporation;

(b) Having an aggregate market value equal to **more than 5 percent** ~~{or more}~~ of the aggregate market value of all the outstanding **voting** shares of the resident domestic corporation; or

(c) Representing **more than 10 percent** ~~{or more}~~ of the earning power or net income, determined on a consolidated basis, of the resident domestic corporation.

3. The issuance or transfer by the resident domestic corporation or any subsidiary of the resident domestic corporation, in one transaction or a series of transactions, of any shares of the resident domestic corporation or any subsidiary of the resident domestic corporation that have an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding **voting** shares of the resident domestic corporation to the interested stockholder or any affiliate or associate of the interested stockholder except under the exercise of warrants or rights to purchase shares offered, or a dividend or distribution paid or made, pro rata to all stockholders of the resident domestic corporation.

4. The adoption of any plan or proposal for the liquidation or dissolution of the resident domestic corporation ~~{proposed by, or}~~ under any agreement, arrangement or understanding, whether or not in writing, with the interested stockholder or any affiliate or associate of the interested stockholder.

5. ~~{Any:}~~ ***Except for any transaction or series of transactions that would not constitute a combination pursuant to subsection 3, any:***

(a) Reclassification of securities, including, without limitation, any splitting of shares, ***share*** dividend, ~~{distributed in shares,}~~ or other distribution of shares with respect to other shares, or any issuance of new shares in exchange for a proportionately greater number of old shares;

(b) Recapitalization of the resident domestic corporation;

(c) Merger or consolidation of the resident domestic corporation with any subsidiary of the resident domestic corporation; or

(d) Other transaction, whether or not with or into or otherwise involving the interested stockholder,

↳ ~~{proposed by, or}~~ under any agreement, arrangement or understanding, whether or not in writing, with the interested stockholder or any affiliate or associate of the interested stockholder, which has the ***immediate and proximate*** effect ~~{, directly or indirectly,}~~ of increasing the proportionate share of the outstanding shares of any class or series of voting shares or securities convertible into voting shares of the resident domestic corporation or any subsidiary of the resident domestic corporation which is ~~{directly or indirectly}~~ ***beneficially*** owned by the interested stockholder or any affiliate or associate of the interested stockholder, except as a result of immaterial changes because of adjustments of fractional shares.

6. Any receipt by the interested stockholder or any affiliate or associate of the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of the resident domestic corporation, of any loan, advance, guarantee, pledge or other financial assistance or any tax credit or other tax advantage provided by or through the resident domestic corporation.

Sec. 34. NRS 78.418 is hereby amended to read as follows:

78.418 1. Except as otherwise provided in subsection 2:

(a) "Control," used alone or in the terms "controlling," "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

(b) A person's beneficial ownership of 10 percent or more of the voting power of a corporation's outstanding voting shares creates a presumption that the person has control of the corporation ~~{,}~~:

(1) In the absence of proof by a preponderance of the evidence to the contrary; or

(2) Unless any other stockholder of the corporation, other than an affiliate or associate of the person, is the beneficial owner of an equal or greater percentage of the voting power of the corporation's outstanding voting shares.

2. A person is not considered to have control of a corporation if the person holds voting power, in good faith and not for the purpose of

circumventing the provisions of this chapter, as an agent, bank, broker, nominee, custodian or trustee for one or more beneficial owners who do not individually or as a group have control of the corporation.

Sec. 35. NRS 78.423 is hereby amended to read as follows:

78.423 1. "Interested stockholder," when used in reference to any resident domestic corporation, means any person, other than the resident domestic corporation or any subsidiary of the resident domestic corporation, who is:

(a) The beneficial owner, directly or indirectly, of 10 percent or more of the voting power of the outstanding voting shares of the resident domestic corporation; or

(b) An affiliate or associate of the resident domestic corporation and at any time within ~~{3}~~ 2 years immediately before the date in question was the beneficial owner, directly or indirectly, of 10 percent or more of the voting power of the then outstanding shares of the resident domestic corporation.

2. To determine whether a person is an interested stockholder, the number of voting shares of the resident domestic corporation considered to be outstanding includes shares considered to be beneficially owned by that person through the application of NRS 78.414, but does not include any other unissued shares of a class of voting shares of the resident domestic corporation which may be issuable *to any person, other than the interested stockholder and its affiliates and associates*, under any agreement, arrangement or understanding, or upon exercise of rights to convert, warrants or options, or otherwise.

Sec. 36. NRS 78.424 is hereby amended to read as follows:

78.424 "Market value," when used in reference to the shares or property of any resident domestic corporation, means:

1. In the case of shares, the highest closing sale price of a share during the 30 *calendar* days immediately preceding the date in question ~~for the composite tape for shares listed on the New York Stock Exchange, or, if the shares are not quoted on the composite tape or not listed on the New York Stock Exchange,~~ on the principal United States securities exchange registered under the Securities Exchange Act on which the shares are listed, or, if the shares are not listed on any such exchange, the fair market value on the date in question of a share as determined by the board of directors of the resident domestic corporation in good faith.

2. In the case of property other than cash or shares, the fair market value of the property on the date in question as determined by the board of directors of the resident domestic corporation in good faith.

Sec. 37. NRS 78.426 is hereby amended to read as follows:

78.426 "Preferred shares" means any class or series of shares of a resident domestic corporation that under the ~~{bylaws or}~~ articles of incorporation of the resident domestic corporation:

1. Is entitled to receive payment of dividends before any payment of dividends on some other class or series of shares; or

2. Is entitled in the event of any voluntary liquidation, dissolution or winding up of the corporation to receive payment or distribution of a preferential amount before any payments or distributions are received by some other class or series of shares.

Sec. 38. NRS 78.429 is hereby amended to read as follows:

78.429 "Share" means:

1. Any share *of stock* or similar security, any certificate of interest, any participation in any profit-sharing agreement, any voting-trust certificate, or any certificate of deposit for a share ~~{-}~~, *in each case representing, directly or indirectly, equity ownership*; and

2. Any security convertible, with or without consideration, into shares, or any warrant, call or other option or privilege of buying shares without being bound to do so, or any other security carrying any right to acquire, subscribe to, or purchase shares.

Sec. 39. NRS 78.431 is hereby amended to read as follows:

78.431 "Subsidiary" of any resident domestic corporation means any other ~~{corporation}~~ *entity* of which a majority of the ~~{outstanding voting shares whose votes are entitled to be cast are owned,}~~ *voting power is held*, directly or indirectly, by the resident domestic corporation.

Sec. 40. NRS 78.433 is hereby amended to read as follows:

78.433 *1.* NRS 78.411 to 78.444, inclusive, *and section 14 of this act* do not apply to any combination of a resident domestic corporation:

~~{-}~~ *(a)* Which ~~{does}~~ *was* not, as of the date that the person first becomes an interested stockholder, ~~{have a class of voting shares registered with the Securities and Exchange Commission under section 12 of the Securities Exchange Act,}~~ *a publicly traded corporation*, unless the corporation's articles of incorporation provide otherwise.

~~{-}~~ *(b)* Whose articles of incorporation have been amended to provide that the resident domestic corporation is subject to NRS 78.411 to 78.444, inclusive, *and section 14 of this act* and which ~~{did}~~ *was* not ~~{have a class of voting shares registered with the Securities and Exchange Commission under section 12 of the Securities Exchange Act}~~ *a publicly traded corporation* on the effective date of the amendment, if the combination is with a person who first became an interested stockholder before the effective date of the amendment.

2. The articles of incorporation of a resident domestic corporation may impose on combinations of the resident domestic corporation stricter requirements than the requirements of NRS 78.411 to 78.444, inclusive, and section 14 of this act.

3. The provisions of NRS 78.411 to 78.444, inclusive, and section 14 of this act do not restrict the directors of a resident domestic corporation from taking action to protect the interests of the corporation and its stockholders, including, without limitation, adopting or signing plans, arrangements or instruments that grant or deny rights, privileges, power or

authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 41. NRS 78.434 is hereby amended to read as follows:

78.434 NRS 78.411 to 78.444, inclusive, ***and section 14 of this act*** do not apply to any combination of a resident domestic corporation:

1. Whose original articles of incorporation contain a provision expressly electing not to be governed by NRS 78.411 to 78.444, inclusive, ***and section 14 of this act***, unless the articles of incorporation are subsequently amended to provide that the corporation is subject to NRS 78.411 to 78.444, inclusive ~~{}~~, ***and section 14 of this act***;

2. Whose articles of incorporation have been amended pursuant to subsection 1 and the combination is with a person who first became an interested stockholder before the effective date of the amendment;

3. Which, within 30 days after October 1, 1991, adopts an amendment to its bylaws expressly electing not to be governed by NRS 78.411 to 78.444, inclusive, ***and section 14 of this act***, which may be rescinded by subsequent amendment of the bylaws;

4. Which adopts an amendment to its articles of incorporation, approved by the affirmative vote of the holders ~~{, other than interested stockholders and their affiliates and associates,}~~ of ***stock representing*** a majority of the outstanding voting power of the resident domestic corporation ~~{, excluding the voting shares of}~~ ***not beneficially owned by*** interested stockholders ~~{and}~~ ***or*** their affiliates and associates, expressly electing not to be governed by NRS 78.411 to 78.444, inclusive, ***and section 14 of this act***, but the amendment to the articles of incorporation is not effective until 18 months after the vote of the resident domestic corporation's stockholders and does not apply to any combination of the resident domestic corporation with a person who first became an interested stockholder on or before the effective date of the amendment; or

5. Whose articles of incorporation were amended to contain a provision expressly electing not to be governed by NRS 78.411 to 78.444, inclusive, ***and section 14 of this act***, before the date the corporation first became a resident domestic corporation.

Sec. 42. NRS 78.436 is hereby amended to read as follows:

78.436 NRS 78.411 to 78.444, inclusive, ***and section 14 of this act*** do not apply to any combination of a resident domestic corporation with an interested stockholder of the resident domestic corporation who became an interested stockholder inadvertently, if the interested stockholder:

1. As soon as practicable ~~{}~~ ***and before the date of consummation with respect to the combination***, divests ~~{himself or herself of}~~ a sufficient amount of the voting power of the corporation so that ~~{he or she}~~ ***the interested stockholder*** no longer is the beneficial owner, directly or indirectly, of 10 percent or more of the outstanding voting power of the resident domestic corporation; and

2. Would not at any time within ~~{3 years}~~ **12 months** preceding the date of announcement with respect to the combination have been an interested stockholder but for the inadvertent acquisition.

Sec. 43. NRS 78.438 is hereby amended to read as follows:

78.438 1. Except as otherwise provided in NRS 78.433 to 78.437, inclusive, a resident domestic corporation may not engage in any combination with any interested stockholder of the resident domestic corporation for ~~{3}~~ 2 years after the date that the person first became an interested stockholder unless ~~{the}~~ :

(a) *The combination or the transaction by which the person first became an interested stockholder is approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder* ~~{}~~ ; or

(b) *The combination is approved by the board of directors of the resident domestic corporation and, at or after that time, the combination is approved at an annual or special meeting of the stockholders of the resident domestic corporation, and not by written consent, by the affirmative vote of the holders of stock representing at least 60 percent of the outstanding voting power of the resident domestic corporation not beneficially owned by the interested stockholder or the affiliates or associates of the interested stockholder.*

2. If a proposal in good faith regarding a combination is made in writing to the board of directors of the resident domestic corporation, the board of directors shall respond, in writing, within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, setting forth its reasons for its decision regarding the proposal.

3. If a proposal in good faith to enter into a transaction by which the person will become an interested stockholder is made in writing to the board of directors of the resident domestic corporation, the board of directors, unless it responds affirmatively in writing within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, is considered to have disapproved the transaction.

Sec. 44. NRS 78.439 is hereby amended to read as follows:

78.439 A resident domestic corporation may not engage in any combination with an interested stockholder of the resident domestic corporation after the expiration of ~~{3}~~ 2 years after the person first became an interested stockholder other than a combination meeting all of the requirements of the articles of incorporation of the resident domestic corporation and either the requirements specified in subsection 1, 2 or 3 or all of the requirements specified in NRS 78.441 to 78.444, inclusive ~~{}~~ , **and section 14 of this act:**

1. ~~{A}~~ *The combination was approved by the board of directors of the resident domestic corporation before ~~{the date that the}~~ such person first became an interested stockholder.*

2. ~~{A combination with an interested stockholder if the}~~ **The** transaction by which the person **first** became an interested stockholder was approved by the board of directors of the resident domestic corporation before the person **first** became an interested stockholder.

3. ~~{A}~~ **The combination approved is at an annual or special meeting of the stockholders of the resident domestic corporation held no earlier than 2 years after the date that the person first became an interested stockholder, and not by written consent,** by the affirmative vote of the holders of stock representing a majority of the outstanding voting power **of the resident domestic corporation** not beneficially owned by the interested stockholder ~~{proposing the combination,}~~ or any affiliate or associate of the interested stockholder . ~~{proposing the combination, at a meeting called for that purpose no earlier than 3 years after the date that the person first became an interested stockholder.}~~

Sec. 45. NRS 78.441 is hereby amended to read as follows:

78.441 ~~{A}~~ **As an alternative to a combination {engaged in} satisfying the requirements of subsection 1, 2 or 3 of NRS 78.439, a combination** with an interested stockholder of the resident domestic corporation **engaged in** more than ~~{3}~~ 2 years after the date that the person first became an interested stockholder ~~{may be}~~ **is permissible if the requirements of NRS 78.442, 78.443 and 78.444 are satisfied and** the aggregate amount of the cash and the market value, as of the date of consummation, of consideration other than cash to be received per share by all of the holders of outstanding common shares of the resident domestic corporation not beneficially owned by ~~{the}~~ **such** interested stockholder immediately before that date is at least equal to the higher of the following:

1. The highest price per share paid by the interested stockholder, at a time when ~~{he or she}~~ **the interested stockholder** was the beneficial owner, directly or indirectly, of 5 percent or more of the outstanding voting shares of the corporation, for any common shares of the same class or series acquired by the interested stockholder within ~~{3}~~ 2 years immediately before the date of announcement with respect to the combination or within ~~{3}~~ 2 years immediately before, or in, the transaction in which ~~{he or she}~~ **the person** became an interested stockholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest price per share was paid through the date of consummation at the rate for one-year obligations of the United States Treasury ~~{from time to time}~~ in effect ~~{}~~ **on that earliest date**, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per common share since ~~{the}~~ **that** earliest date . ~~{, but no more may be subtracted than the amount of the interest.}~~

2. The market value per common share on the date of announcement with respect to the combination or on the date that the person first became an interested stockholder, whichever is higher, plus interest compounded annually from that date through the date of consummation at the rate for

one-year obligations of the United States Treasury ~~{from time to time}~~ in effect ~~{}~~ **on that date**, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per common share since that date . ~~{, but no more may be subtracted than the amount of the interest.}~~

Sec. 46. NRS 78.442 is hereby amended to read as follows:

78.442 ~~{A}~~ ***As an alternative to a combination ~~{engaged in}~~ satisfying the requirements of subsection 1, 2 or 3 of NRS 78.439, a combination*** with an interested stockholder of the resident domestic corporation ***engaged in*** more than ~~{3}~~ 2 years after the date that the person first became an interested stockholder ~~{may be}~~ ***is permissible if the requirements of NRS 78.441, 78.443 and 78.444 are satisfied and*** the aggregate amount of the cash and the market value, as of the date of consummation, of consideration other than cash to be received per share by all of the holders of outstanding shares of any class or series of shares, other than common shares, of the resident domestic corporation not beneficially owned by the interested stockholder immediately before that date is at least equal to the highest of the following, whether or not the interested stockholder has previously acquired any shares of the class or series of shares:

1. The highest price per share paid by the interested stockholder, at a time when ~~{he or she}~~ ***the interested stockholder*** was the beneficial owner, directly or indirectly, of 5 percent or more of the outstanding voting shares of the corporation, for any shares of that class or series of shares acquired by the interested stockholder within ~~{3}~~ 2 years immediately before the date of announcement with respect to the combination or within ~~{3}~~ 2 years immediately before, or in, the transaction in which ~~{he or she}~~ ***the person*** became an interested stockholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest price per share was paid through the date of consummation at the rate for one-year obligations of the United States Treasury ~~{from time to time}~~ in effect ~~{}~~ ***on that earliest date***, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per share of the class or series of shares since ~~{the}~~ ***that earliest date*** . ~~{, but no more may be subtracted than the amount of the interest.}~~

2. ***The amount specified in the articles of incorporation of the resident domestic corporation, including in any certificate of designation for the class or series, to which the holders of shares of the class or series of shares are entitled upon the consummation of a transaction of a type encompassing the combination, determined as if the transaction had been consummated on the date of consummation with respect to the combination or on the date that the interested stockholder first became an interested stockholder, whichever is higher or, if the articles of incorporation, including any certificate of designation, do not so provide, the highest preferential amount per share to which the holders of shares of the class or series of shares are entitled in the event of any voluntary***

liquidation, dissolution or winding up of the resident domestic corporation, plus the aggregate amount of any dividends declared or due to which the holders are entitled before payment of the dividends on some other class or series of shares, unless the aggregate amount of the dividends is included in the preferential amount.

3. The market value per share of the class or series of shares on the date of announcement with respect to the combination or on the date that the person first became an interested stockholder, whichever is higher, plus interest compounded annually from that date through the date of consummation at the rate for one-year obligations of the United States Treasury ~~{from time to time}~~ in effect ~~{ }~~ **on that date**, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per share of the class or series of shares since that date. ~~{, but no more may be subtracted than the amount of the interest.}~~

Sec. 47. NRS 78.443 is hereby amended to read as follows:

78.443 The consideration to be received by holders of a particular class or series of outstanding shares, including common shares, of the resident domestic corporation in ~~{the}~~ **a** combination pursuant to NRS 78.441 and 78.442 ~~{ }~~ must be in cash or in the same form as the interested stockholder has used to acquire the largest number of shares of the class or series of shares previously acquired by ~~{it,}~~ **the interested stockholder**, and the consideration must be distributed promptly.

Sec. 48. NRS 78.444 is hereby amended to read as follows:

78.444 ~~{A combination may be}~~ ***As an alternative to a combination satisfying the requirements of subsection 1, 2 or 3 of NRS 78.439, a combination with an interested stockholder of the resident domestic corporation engaged in more than 2 years after the date that the person first became an interested stockholder is permissible if the requirements of NRS 78.441, 78.442 and 78.443 are satisfied and,*** after the date that ~~{the}~~ ***such*** person first became an interested stockholder and before the date of consummation with respect to the combination, the interested stockholder has not become the beneficial owner of any additional voting shares of the resident domestic corporation except:

1. As part of the transaction that resulted in the person becoming an interested stockholder;

2. By virtue of ~~{proportionate splitting of shares, dividends distributed in shares, or other distributions of shares in respect of shares}~~ ***any transaction or series of transactions*** not constituting a combination;

3. Through a combination meeting ~~{all of}~~ the ~~{conditions}~~ ***requirements*** of NRS 78.439; or

4. Through a purchase at any price that, if the price had been paid in an otherwise permissible combination whose date of announcement and date of consummation were the date of the purchase, would have satisfied the requirements of NRS 78.441, 78.442 and 78.443.

Sec. 49. NRS 78.580 is hereby amended to read as follows:

78.580 1. If the board of directors of any corporation organized under this chapter ~~[- after the issuance of stock or the beginning of business.]~~ decides that the corporation should be dissolved, the board may adopt a resolution to that effect.

2. If the corporation has issued no stock, only the directors need to approve the dissolution.

3. If the corporation has issued stock, the directors must recommend the dissolution to the stockholders. ***The board of directors may condition its submission of the proposal for dissolution on any lawful basis.*** The corporation shall notify each stockholder, *whether or not* entitled to vote on dissolution, ***of the proposed dissolution*** and the stockholders entitled to vote must approve the dissolution.

~~[2.]~~ 4. If the dissolution is approved by the directors or both the directors and stockholders, as respectively provided in ~~[subsection 1.]~~ ***subsections 2 and 3***, the corporation shall file with the ~~[Office of the]~~ Secretary of State a certificate signed by an officer of the corporation setting forth that the dissolution has been approved by the directors, or by the directors and the stockholders, and a list of the names and addresses, either residence or business, of the corporation's president, secretary and treasurer, or the equivalent thereof, and all of its directors.

~~[3.]~~ 5. The dissolution takes effect ~~[upon]~~ ***at the time of the*** filing of the certificate of dissolution ~~with the [Office of the] Secretary of State~~ or upon a later date ***and time as*** specified in the certificate, which ***date*** must be not more than 90 days after the date on which the certificate is filed. ***If a certificate of dissolution specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 50. NRS 78.585 is hereby amended to read as follows:

78.585 The dissolution of a corporation does not impair any remedy or cause of action available to or against it or its directors, officers or shareholders arising before its dissolution and commenced within 2 years after the date of the dissolution. ~~[[t]]~~ ***The corporation*** continues as a body corporate for the purpose of prosecuting and defending suits, actions, proceedings and claims of any kind or character by or against it and of enabling it gradually to settle and close its business, ***to collect its assets***, to collect and discharge its obligations, to dispose of and convey its property, ~~[and]~~ to distribute its ~~[assets.]~~ ***money and other property among the stockholders, after paying or adequately providing for the payment of its liabilities and obligations, and to do every other act to wind up and liquidate its business and affairs,*** but not for the purpose of continuing the business for which it was established.

Sec. 51. NRS 78.590 is hereby amended to read as follows:

78.590 1. Upon the dissolution of any corporation under the provisions of NRS 78.580, or upon the expiration of the period of its corporate existence, limited by its articles of incorporation, the directors become

trustees thereof, with full power to ~~settle the affairs, collect the outstanding debts, sell and convey the property, real and personal, and divide the~~ ***prosecute and defend suits, actions, proceedings and claims of any kind or character by or against the corporation and of enabling the corporation gradually to settle and close its business, to collect its assets, to collect and discharge its obligations, to dispose of and convey its property, and to distribute its*** money and other property among the stockholders, after paying or adequately providing for the payment of its liabilities and obligations ~~to~~ , ***and to do every other act to wind up and liquidate its business and affairs, but not for the purpose of continuing the business for which the corporation was established.***

2. After paying or adequately providing for the liabilities and obligations of the corporation, the trustees, with the written consent of stockholders holding stock in the corporation entitling them to exercise at least a majority of the voting power, may sell the remaining assets or any part thereof to a corporation organized under the laws of this or any other state, and take in payment therefor the stock or bonds, or both, of that corporation and distribute them among the stockholders of the liquidated corporation, in proportion to their interest therein. No such sale is valid as against any stockholder who, within 30 days after the mailing of notice to the stockholder of the sale, applies to the district court for an appraisal of the value of his or her interest in the assets so sold, and unless within 30 days after the appraisal is confirmed by the court the stockholders consenting to the sale, or some of them, pay to the objecting stockholder or deposit for the objecting stockholder's account, in the manner directed by the court, the amount of the appraisal. Upon the payment or deposit the interest of the objecting stockholder vests in the person or persons making the payment or deposit.

3. ***In winding up and liquidating the business and affairs of the corporation, the trustees have*** ~~the~~

~~(a) The~~ ***the duties imposed upon them*** ~~by subsection 1 of NRS 78.138;~~ ***and***

~~(b) The~~ ***the benefit of the presumptions established*** ~~by subsection 3 of NRS 78.138.~~

Sec. 52. NRS 78.746 is hereby amended to read as follows:

78.746 1. On application to a court of competent jurisdiction by ~~an~~ ***any*** judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.

2. ~~This~~ ***Subject to the provisions of NRS 78.747, this*** section:

(a) ***Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stock of the judgment debtor. No other remedy, including, without limitation, foreclosure on the stockholder's stock or a court order for directions, accounts and inquiries that the debtor or stockholder might***

have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the corporation, and no other remedy may be ordered by a court.

(b) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.

(c) Applies only to a corporation that:

(1) Has ~~{more than 1 but}~~ fewer than 100 stockholders of record at any time.

*(2) Is not a **publicly traded corporation or a** subsidiary of a publicly traded corporation, either in whole or in part.*

(3) Is not a professional corporation as defined in NRS 89.020.

~~{(b)}~~ *(d) Does not apply to any liability of a stockholder that exists as the result of an action filed before July 1, 2007.*

~~{(c)}~~ *Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stockholder's stock of the corporation.*

~~(d) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.~~

*(e) Does not supersede any ~~{private}~~ **written** agreement between a stockholder and a creditor if the ~~{private}~~ **written** agreement does not conflict with the corporation's articles of incorporation, bylaws or any shareholder agreement to which the stockholder is a party.*

3. As used in this section, "rights of an assignee" means the rights to receive the share of the distributions or dividends paid by the corporation to which the judgment debtor would otherwise be entitled. The term does not include the rights to participate in the management of the business or affairs of the corporation or to become a director of the corporation.

Sec. 53. NRS 78.751 is hereby amended to read as follows:

78.751 1. Any discretionary indemnification pursuant to NRS 78.7502, unless ordered by a court or advanced pursuant to subsection 2, may be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances. The determination must be made:

(a) By the stockholders;

(b) By the board of directors by majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding;

(c) If a majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding so orders, by independent legal counsel in a written opinion; or

(d) If a quorum consisting of directors who were not parties to the action, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion.

2. The articles of incorporation, the bylaws or an agreement made by the corporation may provide that the expenses of officers and directors incurred in defending a civil or criminal action, suit or proceeding must be paid by the

corporation as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the director or officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that the director or officer is not entitled to be indemnified by the corporation. The provisions of this subsection do not affect any rights to advancement of expenses to which corporate personnel other than directors or officers may be entitled under any contract or otherwise by law.

3. The indemnification pursuant to NRS 78.7502 and advancement of expenses authorized in or ordered by a court pursuant to this section:

(a) Does not exclude any other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation or any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, for either an action in the person's official capacity or an action in another capacity while holding office, except that indemnification, unless ordered by a court pursuant to NRS 78.7502 or for the advancement of expenses made pursuant to subsection 2, may not be made to or on behalf of any director or officer if a final adjudication establishes that the director's or officer's acts or omissions involved intentional misconduct, fraud or a knowing violation of the law and was material to the cause of action. *A right to indemnification or to advancement of expenses arising under a provision of the articles of incorporation or any bylaw is not eliminated or impaired by an amendment to such provision after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.*

(b) Continues for a person who has ceased to be a director, officer, employee or agent and inures to the benefit of the heirs, executors and administrators of such a person.

Sec. 54. NRS 78.760 is hereby amended to read as follows:

78.760 1. The fee for filing articles of incorporation is prescribed in the following schedule:

If the amount represented by the total number of shares
provided for in the articles is:

\$75,000 or less.....	\$75
Over \$75,000 and not over \$200,000	175
Over \$200,000 and not over \$500,000	275
Over \$500,000 and not over \$1,000,000	375
Over \$1,000,000:	
For the first \$1,000,000	375
For each additional \$500,000 or fraction thereof.....	275

2. The maximum fee which may be charged pursuant to this section : ~~is \$35,000 for:~~

(a) ~~The~~ ***Is \$35,000 for the*** original filing of ***the*** articles of incorporation.

(b) ~~It~~ subsequent filing of any instrument which authorizes an increase in stock.

3. For the purposes of computing the filing fees according to the schedule in subsection 1, the amount represented by the total number of shares provided for in the articles of incorporation is:

(a) The aggregate par value of the shares, if only shares with a par value are therein provided for;

(b) The product of the number of shares multiplied by \$1, regardless of any lesser amount prescribed as the value or consideration for which shares may be issued and disposed of, if only shares without par value are therein provided for; or

(c) The aggregate par value of the shares with a par value plus the product of the number of shares without par value multiplied by \$1, regardless of any lesser amount prescribed as the value or consideration for which the shares without par value may be issued and disposed of, if shares with and without par value are therein provided for.

➤ For the purposes of this subsection, shares with no prescribed par value shall be deemed shares without par value.

4. The Secretary of State shall calculate filing fees pursuant to this section with respect to shares with a par value of less than one-tenth of a cent as if the par value were one-tenth of a cent.

Sec. 55. NRS 78A.180 is hereby amended to read as follows:

78A.180 1. A corporation may voluntarily terminate its status as a close corporation, and cease to be subject to the provisions of this chapter, by amending the certificate of incorporation to delete therefrom the additional provisions required or permitted by NRS 78A.020 to be stated in the certificate of incorporation of a close corporation. An amendment must be adopted and become effective in accordance with NRS 78.390, except that it must be approved by a vote of the holders of record of at least two-thirds of the voting shares of each class of stock of the corporation that are outstanding.

2. The certificate of incorporation of a close corporation may provide that on any amendment to terminate the status as a close corporation, a vote greater than two-thirds or a vote of all shares of any class may be required. If the certificate of incorporation contains such a provision, that provision may not be amended, repealed or modified by any vote less than that required to terminate the status of the corporation as a close corporation.

3. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the*** filing of the certificate with the Secretary of State or upon a later date ***and time as*** specified in the certificate, which ***date*** must not be more than 90 days after the ***date on which the*** certificate is filed. ***If the certificate specifies a later effective date but does not specify an effective time, the***

certificate becomes effective at 12:01 a.m. in the Pacific time zone on the specified later date.

Sec. 56. ~~[NRS 80.015 is hereby amended to read as follows:~~

~~80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:~~

- ~~(a) Maintaining, defending or settling any proceeding;~~
- ~~(b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;~~
- ~~(c) Maintaining accounts in banks or credit unions;~~
- ~~(d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities;~~
- ~~(e) Making sales through independent contractors;~~
- ~~(f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;~~
- ~~(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;~~
- ~~(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;~~
- ~~(i) Owning, without more, real or personal property;~~
- ~~(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;~~
- ~~(k) The production of motion pictures as defined in NRS 231.020;~~
- ~~(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and~~
- ~~(m) Transacting business in interstate commerce.~~

~~2. The list of activities in subsection 1 is not exhaustive.~~

~~3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless the person:~~

- ~~(a) Maintains an office in this State for the transaction of business;~~
- ~~(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS;~~
- ~~(c) Solicits business for the activities of a mortgage broker as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100 [;], except to the extent such activities relate to a mortgage loan secured by real property which is commercial property as defined by NRS 645E.040; or~~
- ~~(d) Arranges a mortgage loan secured by real property which is not commercial property as defined by NRS 645E.040.~~

~~4. The fact that a person is not doing business in this State within the meaning of this section:~~

~~(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and~~

~~(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.~~

~~5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS. } (Deleted by amendment.)~~

Sec. 57. NRS 80.190 is hereby amended to read as follows:

80.190 1. Except as otherwise provided in subsection 2, each foreign corporation doing business in this State shall, not later than the month of March in each year, publish a statement ~~{of its last calendar year's business}~~ in two numbers or issues of a newspaper published in this State that has a total weekly circulation of at least 1,000. The statement must include:

- (a) The name of the corporation.
- (b) The name and title of the corporate officer submitting the statement.
- (c) The mailing or street address of the corporation's principal office.
- (d) The mailing or street address of the corporation's office in this State, if one exists.

2. If the corporation keeps its records on the basis of a fiscal year other than the calendar, the statement required by subsection 1 must be published not later than the end of the third month following the close of each fiscal year.

3. A corporation which neglects or refuses to publish a statement as required by this section is liable to a penalty of \$100 for each month that the statement remains unpublished.

4. Any district attorney in the State or the Attorney General may sue to recover the penalty. The first county suing through its district attorney shall recover the penalty, and if no suit is brought for the penalty by any district attorney, the State may recover through the Attorney General.

Sec. 58. NRS 82.006 is hereby amended to read as follows:

82.006 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 82.011 to ~~{82.044,}~~ **82.041**, inclusive, have the meanings ascribed to them in those sections.

Sec. 59. NRS 82.346 is hereby amended to read as follows:

82.346 1. If the first meeting of the directors has not taken place and if there are no members, a majority of the incorporators of a corporation may amend the original articles by signing and proving in the manner required for

original articles, and filing with the Secretary of State a certificate amending, modifying, changing or altering the original articles, in whole or in part. The certificate must state that:

(a) The signers thereof are a majority of the original incorporators of the corporation; and

(b) As of the date of the certification, no meeting of the directors has taken place and the corporation has no members other than the incorporators.

2. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

3. This section does not permit the insertion of any matter not in conformity with this chapter.

4. The Secretary of State shall charge the fee allowed by law for filing the amended certificate of incorporation.

Sec. 60. NRS 82.356 is hereby amended to read as follows:

82.356 1. Except as otherwise provided in NRS 77.340, each amendment adopted pursuant to the provisions of NRS 82.351 must be made in the following manner:

(a) The board of directors must adopt a resolution setting forth the amendment proposed, approve it and, if the corporation has members entitled to vote on an amendment to the articles, call a meeting, either annual or special, of the members. The amendment must also be approved by each public official or other person whose approval of an amendment of articles is required by the articles.

(b) At the meeting of members, of which notice must be given to each member entitled to vote pursuant to the provisions of this section, a vote of the members entitled to vote in person or by proxy must be taken for and against the proposed amendment. A majority of a quorum of the voting power of the members or such greater proportion of the voting power of members as may be required in the case of a vote by classes, as provided in subsection 3, or as may be required by the articles, must vote in favor of the amendment.

(c) Upon approval of the amendment by the directors, or if the corporation has members entitled to vote on an amendment to the articles, by both the directors and those members, and such other persons or public officers, if any, as are required to do so by the articles, an officer of the corporation must sign a certificate setting forth the amendment, or setting forth the articles as amended, that the public officers or other persons, if any, required by the articles have approved the amendment, and the vote of the members and directors by which the amendment was adopted.

(d) The certificate so signed must be filed in the Office of the Secretary of State.

2. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

3. If any proposed amendment would alter or change any preference or any relative or other right given to any class of members, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of a majority of a quorum of the voting power of each class of members affected by the amendment regardless of limitations or restrictions on their voting power.

4. In the case of any specified amendments, the articles may require a larger vote of members than that required by this section.

Sec. 61. NRS 82.371 is hereby amended to read as follows:

82.371 1. A corporation may restate, or amend and restate, in a single certificate the entire text of its articles as amended by filing with the Secretary of State a certificate which must set forth the articles as amended to the date of the certificate. If the certificate alters or amends the articles in any manner, it must comply with the provisions of NRS 82.346, 82.351 and 82.356, as applicable, and must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the articles of incorporation on file with the Secretary of State are being altered or amended.

2. If the certificate does not alter or amend the articles, it must be signed by an officer of the corporation and must state that the officer has been authorized to sign the certificate by resolution of the board of directors adopted on the date stated, and that the certificate correctly sets forth the text of the articles as amended to the date of the certificate.

3. The following may be omitted from the restated articles:

(a) The names, addresses, signatures and acknowledgments of the incorporators;

(b) The names and addresses of the members of the past and present board of directors; and

(c) The information required pursuant to NRS 77.310.

4. Whenever a corporation is required to file a certified copy of its articles, in lieu thereof it may file a certified copy of the most recent certificate restating its articles as amended, subject to the provisions of subsection 2, together with certified copies of all certificates of amendment filed after the restated articles and certified copies of all certificates supplementary to the original articles.

5. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 62. NRS 82.451 is hereby amended to read as follows:

82.451 1. A corporation may be dissolved and its affairs wound up voluntarily if the board of directors adopts a resolution to that effect and calls a meeting of the members entitled to vote to take action upon the resolution. The resolution must also be approved by any person or superior organization whose approval is required by a provision of the articles authorized by NRS 82.091. The meeting of the members must be held with due notice. If at the meeting the members entitled to exercise a majority of all the voting power consent by resolution to the dissolution, a certificate signed by an officer of the corporation setting forth that the dissolution has been approved in compliance with this section, together with a list of the names and addresses, either residence or business, of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the corporation, must be filed in the Office of the Secretary of State.

2. If a corporation has no members entitled to vote upon a resolution calling for the dissolution of the corporation, the corporation may be dissolved and its affairs wound up voluntarily by the board of directors if it adopts a resolution to that effect. The resolution must also be approved by any person or superior organization whose approval is required by a provision of the articles authorized by NRS 82.091. A certificate setting forth that the dissolution has been approved in compliance with this section and a list of the officers and directors, signed as provided in subsection 1, must be filed in the Office of the Secretary of State.

3. Upon the dissolution of any corporation under the provisions of this section or upon the expiration of its period of corporate existence, the directors are the trustees of the corporation in liquidation and in winding up the affairs of the corporation. The act of a majority of the directors as trustees remaining in office is the act of the directors as trustees.

4. A certificate filed pursuant to this section is effective ~~upon~~ ***at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 63. NRS 82.456 is hereby amended to read as follows:

82.456 1. Actions available to or against a corporation or its directors, officers or members are limited as provided in NRS 78.585.

2. A corporation dissolved under this chapter and its directors, trustees, receivers, members, creditors and the district court have all the rights, duties and liabilities they have with respect to dissolved corporations governed by chapter 78 of NRS as provided by NRS 78.585 ~~[-78.595]~~ and 78.615.

3. The district court and the clerk of the court have the same powers and duties with respect to dissolved corporations governed by this chapter as they have with respect to dissolved corporations governed by chapter 78 of NRS as provided in NRS 78.600, 78.605, 78.615 and 78.620.

Sec. 64. NRS 86.011 is hereby amended to read as follows:

86.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 86.022 to ~~[-86.128]~~ **86.1255**, inclusive, have the meanings ascribed to them in those sections.

Sec. 65. NRS 86.201 is hereby amended to read as follows:

86.201 1. A limited-liability company is considered legally organized pursuant to this chapter : ~~[-upon-]~~

(a) ~~[-Filing]~~ ***At the time of the filing of*** the articles of organization with the Secretary of State , ~~[-or]~~ upon a later date ***and time as*** specified in the articles ~~[-of organization-]~~ , ***which date must not be more than 90 days after the date on which the articles are filed or, if the articles specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable;*** and

(b) ~~[-Paying]~~ ***Upon paying*** the required filing fees to the Secretary of State.

2. A limited-liability company must not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the company is considered legally organized pursuant to subsection 1.

3. A limited-liability company is an entity distinct from its managers and members.

Sec. 66. NRS 86.216 is hereby amended to read as follows:

86.216 1. For any limited-liability company where management is vested in one or more managers and where no member's interest in the limited-liability company has been issued, at least two-thirds of the organizers or the managers of the limited-liability company may amend the articles of organization of the limited-liability company by signing and filing with the Secretary of State a certificate amending, modifying, changing or altering the articles, in whole or in part. The certificate must state that:

(a) The signers thereof are at least two-thirds of the organizers or the managers of the limited-liability company, and state the name of the limited-liability company; and

(b) As of the date of the certificate, no member's interest in the limited-liability company has been issued.

2. A certificate filed pursuant to this section is effective ~~[-upon]~~ ***at the time of the filing of*** the certificate with the Secretary of State or upon a later date ***and time as*** specified in the certificate, which ***date*** must not be more than 90 days after the ***date on which the*** certificate is filed. ***If a certificate***

filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.

3. If a certificate filed pursuant to this section specifies ~~that~~ a later effective date and if no member's interest in the limited-liability company has been issued, the managers of the limited-liability company may terminate the effectiveness of the certificate by filing a certificate of termination with the Secretary of State that:

(a) *Is filed before the effective date specified in the certificate filed with the Secretary of State pursuant to subsection 1;*

(b) Identifies the certificate being terminated;

~~(b)~~ *(c) States that no member's interest in the limited-liability company has been issued;*

~~(c)~~ *(d) States that the effectiveness of the certificate has been terminated;*

~~(d)~~ *(e) Is signed by at least two-thirds of the managers; and*

~~(e)~~ *(f) Is accompanied by a filing fee of \$175.*

4. This section does not permit the insertion of any matter not in conformity with this chapter.

Sec. 67. NRS 86.221 is hereby amended to read as follows:

86.221 1. The articles of organization of a limited-liability company may be amended for any purpose, not inconsistent with law, as determined by all of the members or permitted by the articles or an operating agreement.

2. Except as otherwise provided in NRS 77.340, an amendment must be made in the form of a certificate setting forth:

(a) The name of the limited-liability company;

(b) Whether the limited-liability company is managed by managers or members; and

(c) The amendment to the articles of organization.

3. The certificate of amendment must be signed by a manager of the company or, if management is not vested in a manager, by a member.

4. Restated articles of organization may be signed and filed in the same manner as a certificate of amendment. If the certificate alters or amends the articles in any manner, it must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the articles of organization on file with the Secretary of State are being altered or amended.

5. The following may be omitted from the restated articles of organization:

(a) The names, addresses, signatures and acknowledgments of the organizers;

(b) The names and addresses of the past and present members or managers; and

(c) The information required pursuant to NRS 77.310.

6. A certificate of amendment or restated articles of organization filed pursuant to this section are effective at the time of the filing of the

certificate or restated articles with the Secretary of State or upon a later date and time as specified in the certificate or ~~the~~ restated articles, which date must not be more than 90 days after the date on which the certificate or ~~the~~ restated articles are filed. If a certificate or restated articles filed pursuant to this section specify a later effective date but do not specify an effective time, the certificate or restated articles are effective at 12:01 a.m. in the Pacific time zone on the specified later date.

Sec. 68. NRS 86.226 is hereby amended to read as follows:

86.226 1. A signed certificate of amendment, or a certified copy of a judicial decree of amendment, must be filed with the Secretary of State. A person who signs a certificate as an agent, officer or fiduciary of the limited-liability company need not exhibit evidence of his or her authority as a prerequisite to filing. Unless the Secretary of State finds that a certificate does not conform to law, upon receipt of all required filing fees the Secretary of State shall file the certificate.

2. A certificate of amendment or judicial decree of amendment is effective ~~upon~~ ***at the time of the filing of the certificate or judicial decree*** with the Secretary of State or upon a later date ***and time as*** specified in the certificate or judicial decree, which ***date*** must not be more than 90 days after the certificate or judicial decree is filed. ***If a certificate or judicial decree filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the certificate or judicial decree is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

3. If a certificate ***filed pursuant to subsection 1*** specifies ~~an~~ ***a later effective date or a later effective date and time*** and if the resolution of the members approving the proposed amendment provides that one or more managers or, if management is not vested in a manager, one or more members may abandon the proposed amendment, then those managers or members may terminate the effectiveness of the certificate by filing a certificate of termination with the Secretary of State that:

(a) Is filed before the effective date ***and time*** specified in the certificate ~~for judicial decree~~ filed pursuant to subsection 1 ~~or~~ ***or, if the certificate specifies a later effective date but does not specify an effective time, on or before the day preceding the specified later date;***

(b) Identifies the certificate being terminated;

(c) States that, pursuant to the resolution of the members, the manager of the company or, if management is not vested in a manager, a designated member is authorized to terminate the effectiveness of the certificate;

(d) States that the effectiveness of the certificate has been terminated;

(e) Is signed by a manager of the company or, if management is not vested in a manager, a designated member; and

(f) Is accompanied by a filing fee of \$175.

Sec. 69. NRS 86.401 is hereby amended to read as follows:

86.401 1. On application to a court of competent jurisdiction by ~~at~~ ***any*** judgment creditor of a member, the court may charge the member's interest

with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the member's interest.

2. This section:

(a) Provides the exclusive remedy by which a judgment creditor of a member or an assignee of a member may satisfy a judgment out of the member's interest of the judgment debtor ~~{-}~~ , *whether the limited-liability company has one member or more than one member. No other remedy, including, without limitation, foreclosure on the member's interest or a court order for directions, accounts and inquiries that the debtor or member might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the limited-liability company, and no other remedy may be ordered by a court.*

(b) Does not deprive any member of the benefit of any exemption applicable to his or her interest.

(c) *Does not supersede any written agreement between a member and a creditor if the written agreement does not conflict with the limited-liability company's articles of organization or operating agreement.*

Sec. 70. NRS 86.541 is hereby amended to read as follows:

86.541 1. The signed articles of dissolution must be filed with the Secretary of State. Articles of dissolution are effective ~~upon~~ *at the time of the filing of the articles with the Secretary of State or upon a later date and time as specified in the articles, which date must not be more than 90 days after the date on which the articles are filed. If the articles filed pursuant to this section specify a later effective date but do not specify an effective time, the articles are effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

2. ~~Upon~~ *At the time of the filing of the articles of dissolution ~~for~~ {or} with the Secretary of State, upon a later date and time as specified in the articles {-} , which date must not be more than 90 days after the date on which the articles are filed or, if the articles filed pursuant to this section specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable,* the existence of the company ceases, except for the purpose of suits, other proceedings and appropriate action as provided in this chapter. The manager or managers in office at the time of dissolution, or the survivors of them, are thereafter trustees for the members and creditors of the dissolved company and as such have authority to distribute any property of the company discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the dissolved company.

Sec. 71. NRS 86.547 is hereby amended to read as follows:

86.547 1. A foreign limited-liability company may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a manager of the company or, if management is not vested in a

manager, a member of the company. The certificate, which must be accompanied by the required fees, must set forth:

- (a) The name of the foreign limited-liability company;
- (b) The effective date **and time** of the cancellation if other than the ~~{date}~~ **time** of the filing of the certificate of cancellation ~~{,}~~ **with the Secretary of State**, which **date** must not be more than 90 days after the **date on which the** certificate is filed; and
- (c) Any other information deemed necessary by the manager of the company or, if management is not vested in a manager, a member of the company.

2. *If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the cancellation of the registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

3. A cancellation pursuant to this section does not terminate the authority of the Secretary of State to accept service of process on the foreign limited-liability company with respect to causes of action arising from the transaction of business in this State by the foreign limited-liability company.

Sec. 72. NRS 87.001 is hereby amended to read as follows:

87.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 87.002 ~~{to 87.008, inclusive,}~~ **and 87.007** have the meanings ascribed to them in those sections.

Sec. 73. NRS 87.460 is hereby amended to read as follows:

87.460 1. A certificate of registration of a registered limited-liability partnership may be amended by filing with the Secretary of State a certificate of amendment. The certificate of amendment must set forth:

- (a) The name of the registered limited-liability partnership; and
- (b) The change to the information contained in the original certificate of registration or any other certificates of amendment.

2. The certificate of amendment must be:

- (a) Signed by a managing partner of the registered limited-liability partnership; and
- (b) Accompanied by a fee of \$175.

3. A certificate filed pursuant to this section is effective ~~{upon}~~ **at the time of the filing of** the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which **date** must not be more than 90 days after the **date on which the** certificate is filed. *If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 74. NRS 87A.240 is hereby amended to read as follows:

87A.240 1. In order to amend its certificate of limited partnership, a limited partnership must deliver to the Secretary of State for filing an amendment or articles of merger stating:

- (a) The name of the limited partnership; and

(b) The changes the amendment makes to the certificate as most recently amended or restated.

2. A limited partnership shall promptly deliver to the Secretary of State for filing an amendment to a certificate of limited partnership to reflect:

- (a) The admission of a new general partner;
- (b) The withdrawal of a person as a general partner; or
- (c) The appointment of a person to wind up the limited partnership's activities under subsection 3 or 4 of NRS 87A.500.

3. A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:

- (a) Cause the certificate to be amended; or
- (b) If appropriate, deliver to the Secretary of State for filing a certificate of correction pursuant to NRS 87A.275.

4. A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

5. A restated certificate of limited partnership may be delivered to the Secretary of State for filing in the same manner as an amendment.

6. An amendment or restated certificate is effective ~~{when filed by}~~ ***at the time of the filing of the amendment or restated certificate with*** the Secretary of State or upon a later date ***and time as*** specified in the ***amendment or restated*** certificate, which ***date*** must not be more than 90 days after the ***date on which the amendment or restated*** certificate is filed. ***If an amendment or restated certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the amendment or restated certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 75. NRS 87A.480 is hereby amended to read as follows:

87A.480 1. On application to a court of competent jurisdiction by any judgment creditor of a partner, ~~{or transferee,}~~ the court may charge the ~~{transferable}~~ ***partnership*** interest of the ~~{judgment debtor}~~ ***partner*** with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of ~~{a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect}~~ ***an assignee*** of the partnership ~~{and make all other orders, directions, accounts and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.}~~ ***interest.***

2. ~~{A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.}~~

3. At any time before foreclosure, an interest charged may be redeemed:

- (a) By the judgment debtor;

(b) ~~With property other than limited partnership property, by one or more of the other partners; or~~

(c) ~~With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.~~

4. ~~This chapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.~~

5. ~~This section provides~~ :

(a) *Provides* the exclusive remedy by which a judgment creditor of a partner or ~~transferee~~ ***an assignee of a partner*** may satisfy a judgment out of the ***partnership interest of the*** judgment ~~debtor's transferable interest.~~ ***debtor. No other remedy, including, without limitation, foreclosure on the partner's partnership interest or a court order for directions, accounts and inquiries that the debtor or partner might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the limited partnership, and no other remedy may be ordered by a court.***

(b) *Does not deprive any partner of the benefit of any exemption laws applicable to the partnership interest of the partner.*

(c) *Does not supersede any written agreement between a partner and creditor if the written agreement does not conflict with the partnership's certificate of limited partnership or partnership agreement.*

Sec. 76. NRS 87A.605 is hereby amended to read as follows:

87A.605 **1.** A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a general partner. The certificate must set forth:

~~1-1~~ (a) The name of the foreign limited partnership;

~~1-2~~ (b) The reason for filing the certificate of cancellation;

~~1-3~~ (c) The effective date ***and time*** of the cancellation if other than the ~~date~~ ***time*** of the filing of the certificate ~~with the Secretary of State,~~ which ***date*** must not be more than 90 days after the ***date on which the*** certificate is filed; and

~~1-4~~ (d) Any other information deemed necessary by the general partners of the partnership.

➤ A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this State.

2. *If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 77. NRS 87A.630 is hereby amended to read as follows:

87A.630 **1.** To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

- (a) The name of the limited partnership.
- (b) The street address of its principal office.
- (c) The information required pursuant to NRS 77.310.
- (d) The name and business address of each organizer signing the certificate.

- (e) The name and business address of each initial general partner.
- (f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

- (g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. A partnership may register as a registered limited-liability limited partnership at the time it files a certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees prescribed in subsections 1 and 2 of NRS 87A.315.

5. The registration of a registered limited-liability limited partnership is effective ~~on~~ ~~at the later of the~~ ***time of the*** filing of the certificate of registration ***with the Secretary of State or upon a later date and time as specified in the certificate of registration, which date must not be more than 90 days after the date on which the certificate of registration is filed. If the certificate of registration specifies a later effective date but does not specify an effective time, the certificate of registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

Sec. 78. NRS 88.315 is hereby amended to read as follows:

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

1. "Certificate of limited partnership" means the certificate referred to in NRS 88.350, and the certificate as amended or restated.

2. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his or her capacity as a partner.

3. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in NRS 88.450.

4. "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this State and having as partners one or more general partners and one or more limited partners.

5. "Foreign registered limited-liability limited partnership" means a foreign limited-liability limited partnership:

(a) Formed pursuant to an agreement governed by the laws of another state; and

(b) Registered pursuant to and complying with NRS 88.570 to 88.605, inclusive, and 88.609.

6. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

7. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

8. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners, including a restricted limited partnership.

9. "Partner" means a limited or general partner.

10. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

11. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

~~12. "Record" means information that is inscribed on tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~13. "Registered limited-liability limited partnership" means a limited partnership:~~

~~(a) Formed pursuant to an agreement governed by this chapter; and~~

~~(b) Registered pursuant to and complying with NRS 88.350 to 88.415, inclusive, 88.606, 88.6065 and 88.607.~~

~~14. "Registered agent" has the meaning ascribed to it in NRS 77.230.~~

~~15. "Registered office" means the office maintained at the street address of the registered agent.~~

~~16. "Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 88.350.~~

~~17. "Sign" means to affix a signature to a record.~~

~~18. "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself or herself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.~~

~~19. "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.~~

~~{20. "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.}~~

Sec. 79. NRS 88.355 is hereby amended to read as follows:

88.355 1. A certificate of limited partnership is amended by filing a certificate of amendment thereto in the Office of the Secretary of State. The certificate must set forth:

- (a) The name of the limited partnership; and
- (b) The amendment.

2. Within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events must be filed:

- (a) The admission of a new general partner;
- (b) The withdrawal of a general partner; or
- (c) The continuation of the business under NRS 88.550 after an event of withdrawal of a general partner.

3. A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described, except the address of its office or the name or address of its registered agent, have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

4. A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

5. No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection 2 if the amendment is filed within the 30-day period specified in subsection 2.

6. A certificate of amendment filed pursuant to this section is effective ~~upon~~ **at the time of the** filing of the certificate with the Secretary of State or upon a later date **and time as** specified in the certificate, which **date** must not be more than 90 days after the **date on which the** certificate is filed. ***If a certificate filed pursuant to this section specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.***

7. A restated certificate of limited partnership may be signed and filed in the same manner as a certificate of amendment. If the certificate alters or amends the certificate of limited partnership in any manner, it must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the certificate of limited partnership on file with the Secretary of State are being altered or amended.

Sec. 80. NRS 88.360 is hereby amended to read as follows:

88.360 **1.** A certificate of limited partnership must be cancelled upon the dissolution and the commencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation must be filed in the Office of the Secretary of State and set forth:

- ~~{1-}~~ (a) The name of the limited partnership;
- ~~{2-}~~ (b) The reason for filing the certificate of cancellation;
- ~~{3-}~~ (c) The effective date *and time* of the cancellation if other than the ~~{date}~~ *time* of the filing of the certificate ~~{-}~~ *with the Secretary of State*, which *date* must not be more than 90 days after the *date on which the* certificate is filed; and
- ~~{4-}~~ (d) Any other information the general partners filing the certificate determine.

2. *If a certificate filed pursuant to ~~{this section}~~ subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the certificate of limited partnership is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 81. NRS 88.380 is hereby amended to read as follows:

88.380 1. A signed copy of the certificate of limited partnership and of any certificates of amendment or cancellation or of any judicial decree of amendment or cancellation must be delivered to the Secretary of State. A person who signs a certificate as an agent or fiduciary need not exhibit evidence of his or her authority as a prerequisite to filing. Unless the Secretary of State finds that any certificate does not conform to law, upon receipt of all filing fees required by law the Secretary of State shall file the certificate.

2. ~~{Upon}~~ *At the time of* the filing of a certificate of amendment or judicial decree of amendment with the Secretary of State , ~~{or}~~ *upon a later date and time as specified in the certificate {-} or judicial decree*, which *date* must not be more than 90 days after the *date on which the* certificate *or judicial decree* is filed ~~{-}~~ *or, if a certificate or judicial decree filed pursuant to this section specifies a later effective date but does not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable*, the certificate of limited partnership is amended as set forth therein . ~~{-and upon the effective date}~~

3. *At the time of the filing* of a certificate of cancellation or a judicial decree thereof ~~{-}~~ *with the Secretary of State, upon a later date and time as specified in the certificate or judicial decree, which date must not be more than 90 days after the date on which the certificate or judicial decree is filed or, if a certificate or judicial decree filed pursuant to this section specifies a later effective date but does not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable*, the certificate of limited partnership is cancelled.

Sec. 82. NRS 88.535 is hereby amended to read as follows:

88.535 1. On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest.

2. This section:

(a) Provides the exclusive remedy by which a judgment creditor of a partner or an assignee of a partner may satisfy a judgment out of the partnership interest of the judgment debtor. *No other remedy, including, without limitation, foreclosure on the partner's partnership interest or a court order for directions, accounts and inquiries that the debtor or partner might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the limited partnership, and no other remedy may be ordered by a court.*

(b) Does not deprive any partner of the benefit of any exemption laws applicable to the partnership interest of the partner.

(c) Does not supersede any written agreement between a partner and creditor if the written agreement does not conflict with the partnership's certificate of limited partnership or partnership agreement.

Sec. 83. NRS 88.595 is hereby amended to read as follows:

88.595 **1.** A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a general partner. The certificate must set forth:

~~{1-}~~ **(a)** The name of the foreign limited partnership;
~~{2-}~~ **(b)** The reason for filing the certificate of cancellation;
~~{3-}~~ **(c)** The effective date *and time* of the cancellation if other than the ~~{date}~~ *time* of the filing of the certificate ~~{-}~~ *with the Secretary of State*, which *date* must not be more than 90 days after the *date on which the* certificate is filed; and

~~{4-}~~ **(d)** Any other information deemed necessary by the general partners of the partnership.

➤ A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this State.

2. *If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 84. NRS 88A.030 is hereby amended to read as follows:

88A.030 "Business trust" means an unincorporated association which:

1. Is created by a ~~{trust}~~ *governing* instrument under which property is held, *administered*, managed, controlled, invested, reinvested or operated, or any combination of these, or business or professional activities for profit are carried on, by a trustee *or trustees* for the benefit of the persons entitled to a beneficial interest in the trust property ~~{-}~~ *or as otherwise provided in the governing instrument*; and

2. Files a certificate of trust pursuant to NRS 88A.210.

➤ The term includes, without limitation, a trust of the type known at common law as a business trust or Massachusetts trust, a trust qualifying as a real estate investment trust pursuant to 26 U.S.C. §§ 856 et seq., as amended, or any successor provision, or a trust qualifying as a real estate mortgage

investment conduit pursuant to 26 U.S.C. § 860D, as amended, or any successor provision.

Sec. 85. NRS 88A.050 is hereby amended to read as follows:

88A.050 "Governing instrument" means ~~the~~ **any one or more instruments, whether referred to as a trust instrument, declaration of trust or otherwise,** that ~~creates~~ **create** a trust and ~~provides~~ **provide** for the governance of its affairs and the conduct of its business.

Sec. 86. NRS 88A.210 is hereby amended to read as follows:

88A.210 1. One or more persons may create a business trust by adopting a governing instrument and signing and filing with the Secretary of State a certificate of trust. The certificate of trust must set forth:

- (a) The name of the business trust;
- (b) The name and address, either residence or business, of at least one trustee;
- (c) The information required pursuant to NRS 77.310;
- (d) The name and address, either residence or business, of each person signing the certificate of trust; and
- (e) Any other information the trustees determine to include.

2. Upon the filing of the certificate of trust with the Secretary of State and the payment to the Secretary of State of the required filing fee, the Secretary of State shall issue to the business trust a certificate that the required records with the required content have been filed. From the date of that filing, the business trust is legally formed pursuant to this chapter.

3. *Except as otherwise provided in the governing instrument, a business trust organized on or after October 1, 2011, is deemed to be an entity separate from its trustee or trustees and beneficial owner. Except as otherwise provided in the governing instrument, a business trust may hold or take title to property in its own name, or in the name of a trustee in the trustee's capacity as trustee, whether in an active, passive or custodial capacity. The provisions of this subsection do not change the status of any business trust existing as an entity or aggregation before October 1, 2011.*

4. *Neither the use of the designation "business trust" nor a statement in a governing instrument or certificate of trust to the effect that the trust formed thereby is or will qualify as a business trust under this chapter creates a presumption or inference that the trust so formed is a business trust for the purposes of Title 11 of the United States Code.*

Sec. 87. NRS 88A.250 is hereby amended to read as follows:

88A.250 ~~Upon the filing of a~~

1. A certificate of amendment or restatement **filed** with the Secretary of State ~~[, or upon the future effective]~~ **pursuant to this chapter is effective:**

(a) **At the time of the filing of the certificate or restatement with the Secretary of State;**

(b) **Upon a later date [of such a] and time as specified in the certificate [as provided for therein,], which date must not be more than 90 days after**

the date on which the certificate or restatement is filed with the Secretary of State; or

(c) If the certificate or restatement specifies a later effective date but does not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date.

↪ *At the effective time ~~of~~ of the certificate or restatement,* the certificate of trust is amended or restated as set forth ~~[- Upon the filing of a]~~ *in the certificate or restatement.*

2. A certificate of cancellation ~~[-]~~ or *the* articles of merger in which the business trust is not a surviving entity ~~[-]~~ *are effective:*

(a) At the time of the filing of the certificate or ~~the~~ articles with the Secretary of State ~~[- or upon the future effective]~~ ;

(b) Upon a later date ~~of the~~ and time as specified in the certificate or articles, *which date must not be more than 90 days after the date on which the certificate or articles are filed with the Secretary of State; or*

(c) If the certificate or articles specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date.

↪ *At the effective time of the certificate or articles,* the certificate of trust is cancelled.

Sec. 88. NRS 88A.260 is hereby amended to read as follows:

88A.260 1. Except as otherwise provided in the certificate of trust, the governing instrument or this chapter, a business trust has perpetual existence and may not be terminated or revoked by a beneficial owner or other person except in accordance with the certificate of trust or governing instrument.

2. Except as otherwise provided in the certificate of trust or the governing instrument, the death, incapacity, dissolution, termination or bankruptcy of a beneficial owner does not result in the termination or dissolution of a business trust.

3. An artificial person formed or organized pursuant to the laws of a foreign nation or other foreign jurisdiction or the laws of another state shall not be deemed to be doing business in this State solely because it is a beneficial owner or trustee of a business trust.

4. The provisions of NRS 662.245 do not apply to the appointment of a trustee of a business trust formed pursuant to this chapter.

5. A business trust or any series thereof does not terminate because the same person is the sole trustee and sole beneficial owner.

Sec. 89. NRS 88A.360 is hereby amended to read as follows:

88A.360 ~~[To the extent that, at law or in equity,]~~

1. Except as otherwise provided in the governing instrument but subject to the provisions of subsection 3, a trustee ~~[has duties, fiduciary or otherwise, and liabilities relating thereto to a]~~ *shall act in good faith and in a manner the trustee reasonably believes to be in the best interest of the business trust . ~~for beneficial owner.~~*

~~1-1~~ 2. *If there is at least one trustee of a series trust that, in discharging its duties, is obligated to consider the interests of the trust and all series thereof, the governing instrument may provide that one or more other trustees, in discharging their duties, may consider only the interest of the trust or one or more series thereof.*

3. *The governing instrument may expand, restrict or eliminate the duties of the trustee of a business trust, except that a governing instrument may not eliminate the implied contractual covenant of good faith and fair dealing.*

4. If the trustee acts pursuant to a governing instrument, the trustee is not liable to the business trust or to a beneficial owner for the trustee's reliance in good faith on the provisions of the governing instrument . ~~1-1~~ and

~~2.—The duties and liabilities of the trustee may be expanded or restricted by provisions in the governing instrument.~~

Sec. 90. NRS 88A.420 is hereby amended to read as follows:

88A.420 1. A certificate of trust must be cancelled upon the completion or winding up of the business trust and its termination. A certificate of cancellation must be signed by a trustee, filed with the Secretary of State, and set forth:

~~1-1~~ (a) The name of the business trust;

~~2-1~~ (b) The effective date *and time* of the cancellation if other than the ~~date~~ *time* of the filing of the certificate, which *date* must not be more than 90 days after the *date on which the* certificate is filed; and

~~3-1~~ (c) Any other information the trustee determines to include.

2. *If a certificate filed pursuant to ~~this section~~ subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the certificate of trust is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 91. NRS 88A.740 is hereby amended to read as follows:

88A.740 1. A foreign business trust may cancel its registration by filing with the Secretary of State a certificate of cancellation signed by a trustee. The certificate must set forth:

~~1-1~~ (a) The name of the foreign business trust;

~~2-1~~ (b) The effective date *and time* of the cancellation if other than the ~~date~~ *time* of the filing of the certificate, which *date* must not be more than 90 days after the *date on which the* certificate is filed; and

~~3-1~~ (c) Any other information deemed necessary by the trustee.

➤ A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign business trust with respect to causes of action arising out of the transaction of business in this State.

2. *If a certificate filed pursuant to ~~this section~~ subsection 1 specifies a later effective date but does not specify an effective time, the cancellation of the registration is effective at 12:01 a.m. in the Pacific time zone on the specified later date.*

Sec. 92. NRS 89.020 is hereby amended to read as follows:

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

1. "Articles" means either the articles of incorporation of a professional corporation or the articles of organization of a professional limited-liability company.

2. "Employee" means a person licensed or otherwise legally authorized to render professional service within this State who renders such service through a professional entity or a professional association, but does not include clerks, bookkeepers, technicians or other persons who are not usually considered by custom and practice of the profession to be rendering professional services to the public.

3. "Licensed" means legally authorized by the appropriate regulating board of this State to engage in a regulated profession in this State.

4. "Owner" means the owner of stock in a professional corporation or the owner of a member's interest, as defined in NRS 86.091, in a professional limited-liability company.

5. "Owner's interest" means the stock of a professional corporation or a member's interest, as defined in NRS 86.091, of a professional limited-liability company.

6. "Professional association" means a common-law association of two or more persons licensed or otherwise legally authorized to render professional service within this State when created by written articles of association which contain in substance the following provisions characteristic of corporate entities:

(a) The death, insanity, bankruptcy, retirement, resignation, expulsion or withdrawal of any member of the association does not cause its dissolution.

(b) The authority to manage the affairs of the association is vested in a board of directors or an executive board or committee, elected by the members of the association.

(c) The members of the association are employees of the association.

(d) Members' ownership is evidenced by certificates.

7. "Professional corporation" means a corporation organized under this chapter to render a professional service.

8. "Professional entity" means either a professional corporation or a professional limited-liability company.

9. "Professional limited-liability company" means a limited-liability company organized pursuant to this chapter to render professional service.

10. "Professional service" means any type of personal service which may legally be performed only pursuant to a license, certificate of registration or other legal authorization.

11. ~~"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

12. "Regulating board" means the body which regulates and authorizes the admission to the profession which a professional entity or a professional association is authorized to perform.

~~13. "Sign" means to affix a signature to a record.~~

~~14. "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself or herself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.]~~

Sec. 93. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

Any notice or other communication sent pursuant to any provision of this chapter may be delivered by electronic transmission pursuant to section 11 of this act.

Sec. 94. NRS 92A.005 is hereby amended to read as follows:

92A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 92A.007 to ~~{92A.097,}~~ **92A.092**, inclusive, have the meanings ascribed to them in those sections.

Sec. 95. NRS 92A.105 is hereby amended to read as follows:

92A.105 1. Except as limited by NRS 78.411 to 78.444, inclusive, ***and section 14 of this act*** one domestic general partnership or one domestic entity, except a domestic nonprofit corporation, may convert into a domestic entity of a different type or ***into*** a foreign entity if ~~{the}~~ ***a*** plan of conversion is approved pursuant to the provisions of this chapter.

2. The plan of conversion must be in writing and set forth the:

(a) Name of the constituent entity and the proposed name for the resulting entity;

(b) Jurisdiction of the law that governs the constituent entity;

(c) Jurisdiction of the law that will govern the resulting entity;

(d) Terms and conditions of the conversion;

(e) Manner and basis, if any, of converting the owner's interest ***of the constituent entity*** or the interest of a partner in a general partnership ~~{of}~~ ***that is*** the constituent entity into owner's interests, rights of purchase and other securities in the resulting entity or cancelling such owner's interests in whole or in part; and

(f) Full text of the charter documents of the resulting entity.

3. The plan of conversion may set forth other provisions relating to the conversion.

Sec. 96. NRS 92A.130 is hereby amended to read as follows:

92A.130 1. Action by the stockholders of a surviving domestic corporation on a plan of merger is not required if:

(a) The articles of incorporation of the surviving domestic corporation will not differ from its articles before the merger;

(b) Each stockholder of the surviving domestic corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations and relative rights immediately after the merger;

(c) The number of voting shares ~~{outstanding immediately after the merger, plus the number of voting shares}~~ issued *and issuable* as a result of the merger ~~[, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger,]~~ will not exceed ~~{by more than}~~ 20 percent *of* the total number of voting shares of the surviving domestic corporation outstanding immediately before the merger; and

(d) The number of participating shares ~~{outstanding immediately after the merger, plus the number of participating shares}~~ *issued and issuable* as a result of the merger ~~[, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger,]~~ will not exceed ~~{by more than}~~ 20 percent *of* the total number of participating shares outstanding immediately before the merger.

2. As used in this section:

(a) "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

(b) "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

Sec. 97. NRS 92A.195 is hereby amended to read as follows:

92A.195 1. One foreign entity or foreign general partnership may convert into one domestic entity if:

(a) The conversion is permitted by the law of the jurisdiction governing the foreign entity or foreign general partnership and the foreign entity or foreign general partnership complies with that law in effecting the conversion;

(b) The foreign entity or foreign general partnership complies with the applicable provisions of NRS 92A.205 ~~{and, if it is the resulting entity in the conversion, with NRS 92A.210 to 92A.240, inclusive;}~~ , 92A.207, 92A.210, 92A.230 and 92A.240; and

(c) The *resulting* domestic entity complies with the applicable provisions of NRS ~~{92A.105,}~~ 92A.205 and 92A.220.

2. *One domestic entity or domestic general partnership may convert into one foreign entity if:*

(a) *The conversion is permitted by the law of the jurisdiction governing the resulting foreign entity and the resulting foreign entity complies with that law in effecting the conversion; and*

(b) *The domestic entity complies with the applicable provisions of NRS 92A.105, 92A.120, 92A.135, 92A.140 , {and} 92A.165 , {and, if it is the resulting entity in the conversion, with NRS} 92A.205 {to} , 92A.207, 92A.210, 92A.230 and 92A.240 . {, inclusive.*

~~2-} 3.~~ When ~~{the}~~ **a** conversion ***pursuant to subsection 2*** takes effect, the resulting foreign entity ~~{in a conversion}~~ shall be deemed to have appointed the Secretary of State as its agent for service of process in a proceeding to enforce any obligation. Service of process must be made personally by delivering to and leaving with the Secretary of State duplicate copies of the

process and the payment of a fee of \$100 for accepting and transmitting the process. The Secretary of State shall send one of the copies of the process by registered or certified mail to the resulting entity at its specified address, unless the resulting entity has designated in writing to the Secretary of State a different address for that purpose, in which case it must be mailed to the last address so designated.

Sec. 98. NRS 92A.240 is hereby amended to read as follows:

92A.240 1. A merger, conversion or exchange takes effect ~~upon~~ :

(a) *At the time of the filing of the articles of merger, conversion or exchange ~~for upon~~ with the Secretary of State;*

(b) *Upon a later date and time as specified in the articles, which date must not be more than 90 days after the date on which the articles are filed ~~for~~ ; or*

(c) *If the articles specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date.*

2. If the filed articles of merger, conversion or exchange specify such a later effective date ~~for~~ *or effective date and time*, the constituent entity or entities may file articles of termination before the effective ~~{date,} time~~, setting forth:

(a) The name of each constituent entity and, for a conversion, the resulting entity; and

(b) That the merger, conversion or exchange has been terminated pursuant to the plan of merger, conversion or exchange.

3. The articles of termination must be signed in the manner provided in NRS 92A.230.

Sec. 99. ~~NRS 92A.270 is hereby amended to read as follows:~~

~~92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:~~

~~(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and~~

~~(b) Filing with the Secretary of State:~~

~~(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;~~

~~(2) The appropriate charter document for the type of domestic entity;~~

~~(3) The information required pursuant to NRS 77.310;~~

~~(4) A certified copy of the charter document, or the equivalent, of the undomesticated organization; and~~

~~(5) A certificate of good standing, or the equivalent, from the jurisdiction where the undomesticated organization was chartered immediately before filing the articles of domestication pursuant to subparagraph (1).~~

~~2. The articles of domestication must set forth the:~~

~~(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created and, if~~

~~applicable, any date when and jurisdiction where the undomesticated organization was chartered after its formation;~~

~~(b) Name of the undomesticated organization immediately before filing the articles of domestication;~~

~~(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and~~

~~(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law, immediately before filing the articles of domestication.~~

~~3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.~~

~~4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.~~

~~5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.~~

~~6. Before filing articles of domestication, the domestication must be approved in the manner required by:~~

~~(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and~~

~~(b) Applicable foreign law.~~

~~7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity~~

~~resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.~~

~~8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.~~

~~9. [The owner liability of an undomesticated organization that is domesticated in this State:~~

~~(a) Is not discharged, pursuant to the laws of the previous jurisdiction of the organization, to the extent the owner liability arose before the effective date of the articles of domestication;~~

~~(b) Does not attach, pursuant to the laws of the previous jurisdiction of the organization, to any debt, obligation or liability of the organization that arises after the effective date of the articles of domestication;~~

~~(c) Is governed by the law of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a);~~

~~(d) Is subject to the right of contribution from any other shareholder, member, trustee, partner, limited partner or other owner of the undomesticated organization pursuant to the laws of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a); and~~

~~(e) Applies only to the debts, obligations or liabilities of the organization that arise after the effective date of the articles of domestication if the owner becomes subject to owner liability or some or all of the debts, obligations or liabilities of the undomesticated entity as a result of its domestication in this State.~~

~~10.]—As used in this section [:~~

~~(a) "Owner liability" means the liability of a shareholder, member, trustee, partner, limited partner or other owner of an organization for debts of the~~

organization, including the responsibility to make additional capital contributions to cover such debts.

~~(b) "Undomesticated" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, limited liability company, general partnership, registered limited liability partnership, limited partnership or registered limited liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than [this State.] the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.~~ **(Deleted by amendment.)**

Sec. 100. NRS 92A.380 is hereby amended to read as follows:

92A.380 1. Except as otherwise provided in NRS 92A.370 and 92A.390 ~~and subject to the limitation in paragraph (f),~~ any stockholder is entitled to dissent from, and obtain payment of the fair value of the stockholder's shares in the event of any of the following corporate actions:

(a) Consummation of a plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) Consummation of a plan of conversion to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be converted.

(c) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if the stockholder's shares are to be acquired in the plan of exchange.

(d) Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

(e) Accordance of full voting rights to control shares, as defined in NRS 78.3784, only to the extent provided for pursuant to NRS 78.3793.

(f) Any corporate action not described in this subsection that will result in the stockholder receiving money or scrip instead of ~~fractional shares~~ **a fraction of a share** except where the stockholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207. **A dissent pursuant to this paragraph applies only to the fraction of a share, and the**

stockholder is entitled only to obtain payment of the fair value of the fraction of a share.

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating the entitlement unless the action is unlawful or fraudulent with respect to the stockholder or the domestic corporation.

3. ~~From~~ ***Subject to the limitations in this subsection, from*** and after the effective date of any corporate action described in subsection 1, no stockholder who has exercised the right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his or her shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to stockholders on a date before the effective date of any corporate action from which the stockholder has dissented. ***If a stockholder exercises the right to dissent with respect to a corporate action described in paragraph (f) of subsection 1, the restrictions of this subsection apply only to the shares to be converted into a fraction of a share and the dividends and distributions to those shares.***

Sec. 101. NRS 92A.490 is hereby amended to read as follows:

92A.490 1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded by each dissenter pursuant to NRS 92A.480 plus interest.

2. A subject corporation shall commence the proceeding in the district court of the county where its principal office is located in this State. If the principal office of the subject corporation is not located in ~~the~~ ***this State, the right to dissent arose from a merger, conversion or exchange and the principal office of the surviving entity, resulting entity or the entity whose shares were acquired, whichever is applicable, is located in this State,*** it shall commence the proceeding in the county where the principal office of the ~~{domestic corporation merged with}~~ ***surviving entity, resulting entity or the entity*** whose shares were acquired ~~{by the foreign entity was}~~ ***is*** located. ~~{If}~~ ***In all other cases, if*** the principal office of the subject corporation ~~{and the domestic corporation merged with or whose shares were acquired}~~ ***is*** not located in this State, the subject corporation shall commence the proceeding in the district court in the county in which the corporation's registered office is located.

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of the dissenter's shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of the dissenter's after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

Sec. 102. NRS 77.220, 77.260, 78.595, 78A.001, 78A.004, 78A.006, 78A.008, 80.001, 80.002, 80.0025, 80.003, 80.004, 81.001, 81.0012, 81.0014, 81.0015, 81.0025, 82.038, 82.042, 82.043, 82.044, 84.002, 84.003, 84.0035, 84.004, 86.116, 86.126, 86.127, 86.128, 87.004, 87.005, 87.006, 87.008, 87A.090, 87A.110, 87A.115, 87A.125, 88A.055, 88A.080, 88A.090, 88A.100, 90.277, 91.145, 92A.085, 92A.093, 92A.097 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

77.220 "Record" defined.

77.260 "Sign" defined.

78.595 Trustees of dissolved corporation: Authority to sue and be sued; joint and several responsibility.

78A.001 Definitions.

78A.004 "Record" defined.

78A.006 "Sign" defined.

78A.008 "Signature" defined.

80.001 Definitions.

80.002 "Record" defined.

80.0025 "Sign" defined.

80.003 "Signature" defined.

80.004 "Street address" defined.

81.001 Definitions.

81.0012 "Record" defined.

81.0014 "Sign" defined.

81.0015 "Signature" defined.

81.0025 "Street address" defined.

82.038 "Record" defined.

82.042 "Sign" defined.

82.043 "Signature" defined.

82.044 "Street address" defined.

84.002 Definitions.

84.003 "Record" defined.

84.0035 "Sign" defined.
 84.004 "Signature" defined.
 86.116 "Record" defined.
 86.126 "Sign" defined.
 86.127 "Signature" defined.
 86.128 "Street address" defined.
 87.004 "Record" defined.
 87.005 "Sign" defined.
 87.006 "Signature" defined.
 87.008 "Street address" defined.
 87A.090 "Record" defined.
 87A.110 "Sign" defined.
 87A.115 "Signature" defined.
 87A.125 "Street address" defined.
 88A.055 "Record" defined.
 88A.080 "Sign" defined.
 88A.090 "Signature" defined.
 88A.100 "Street address" defined.
 90.277 "Record" defined.
 91.145 "Record" defined.
 92A.085 "Record" defined.
 92A.093 "Sign" defined.
 92A.097 "Signature" defined.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 226 to Senate Bill No. 405 deletes Section 56 of the bill that exempted from certain registration requirements a person who solicits business in relation to a mortgage loan secured by commercial real property. It deletes Section 99 concerning domestication.

It revises Sections 51 and 52 pertaining to joint and several liability for trustees of a dissolved corporation and the charging order statutes.

It makes various changes throughout the measure in order to provide additional clarity on the intent of the measure.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 414.

Bill read second time.

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

Amendment No. 299.

"SUMMARY—Revises provisions relating to ~~banks~~ financial institutions. (BDR 55-1107)"

"AN ACT relating to ~~banks~~; ~~prohibiting a bank from demanding the repayment of the principal of a commercial mortgage loan unless a person~~

~~fails to pay the loan as agreed.} **financial institutions;** prohibiting a ~~bank~~ **banking or other financial institution** from unreasonably delaying a response to an offer for a short sale on real property secured by a residential mortgage loan; prohibiting a **banking or other** financial institution from obtaining a deficiency judgment in certain circumstances; **providing a penalty;** and providing other matters properly relating thereto."~~

Legislative Counsel's Digest:

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. For an obligation secured by a mortgage or deed of trust on or after October 1, 2009, a court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; and (5) the debtor or grantor did not refinance the loan. (NRS 40.455) **Section 4** of this bill prohibits a court from awarding a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the creditor or beneficiary is a **banking or other** financial institution; (2) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (3) the debtor or grantor used the loan to purchase the property; (4) the debtor or grantor occupied the property continuously after obtaining the loan; (5) the debtor or grantor and the **banking or other** financial institution entered into an agreement, commonly known as a short sale, to sell the real property to a third party for less than the indebtedness; and (6) the agreement does not state the amount of money still owed by the debtor or grantor or does not authorize the **banking or other** financial institution to recover that money. ~~It~~ **and contains a statement that the banking or other financial institution has waived its right to recover the amount owed.** **Section 3** of this bill prohibits a ~~bank~~ **banking or other financial institution** or its officers, managers or employees from unreasonably delaying its response to an offer for a short sale on real property secured by a residential mortgage loan.

~~{Section 2 of this bill prohibits a bank from demanding the repayment of all or part of the outstanding principal on a commercial mortgage loan unless the debtor fails to make payments on the loan as agreed.}~~ **Under existing law, a violation of section 3 constitutes a misdemeanor and, in addition to any criminal penalty, is punishable by an administrative fine of not more than \$10,000. (NRS 668.112, 668.115)**

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

Section 1. Chapter 668 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~1. A bank or an officer, manager or employee of a bank shall not demand the repayment of any additional amount of outstanding principal on a commercial mortgage loan if the person to whom the loan was made has not failed to make payments upon the commercial mortgage loan as agreed.~~

~~2. As used in this section, "commercial mortgage loan" has the meaning ascribed to it in NRS 645E.030.~~ **(Deleted by amendment.)**

Sec. 3. 1. A ~~bank~~ banking or other financial institution, or an officer, manager or employee of a ~~bank~~ banking or other financial institution, shall not unreasonably delay responding to an offer for a short sale on real property secured by a residential mortgage loan.

2. For the purposes of this section, a person is presumed to have unreasonably delayed responding to an offer for a short sale on real property secured by a residential mortgage loan when the person fails to respond to an offer for a short sale with an acceptance or rejection of the offer within 90 days after receipt of the offer ~~+~~, unless the parties have agreed in writing to a delay of more than 90 days after receipt of the offer.

3. As used in this section:

(a) "Banking or other financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

(b) "Indebtedness" has the meaning ascribed to it in NRS 40.451.

~~(b)~~ **(c) "Residential mortgage loan" has the meaning ascribed to it in NRS 645B.0132.**

~~(c)~~ **(d) "Short sale" means an agreement between a ~~bank~~ banking or other financial institution and an owner of real property to sell the real property secured by a residential mortgage loan to a third party for an amount less than the indebtedness secured thereby.**

Sec. 4. NRS 40.455 is hereby amended to read as follows:

40.455 1. Except as otherwise provided in subsection 3 ~~+~~ **or 4**, upon application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property

securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. If the judgment creditor or the beneficiary of the deed of trust is a financial institution, ~~it~~ as defined in NRS 363A.050, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust; and

(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.

4. *If the judgment creditor or the beneficiary of the deed of trust is a banking or other financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if:*

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust;

(d) The debtor or grantor and the banking or other financial institution entered into an agreement to sell the real property secured by the mortgage or deed of trust to a third party for an amount less than the indebtedness secured thereby; and

(e) The agreement entered into pursuant to paragraph (d) ~~does~~ :

(1) Does not state the amount of money still owed to the banking or other financial institution by the debtor or grantor or does not authorize the banking or other financial institution to recover that amount from the debtor or grantor ~~it~~ ; and

(2) Contains a conspicuous statement that has been acknowledged by the signature of the debtor or grantor which provides that the banking or other financial institution has waived its right to recover the amount owed by the debtor or grantor and which sets forth the amount of recovery that is being waived.

5. As used in this section, "banking or other financial institution" ~~has the meaning ascribed to it in NRS 363A.050.~~ means any bank, savings and

loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer

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

Amendment No. 299 to Senate Bill No. 414 deletes the provision relating to a demand by a bank for additional principal payments on commercial mortgage loans.

It includes the term "other financial institutions" in the remaining provisions dealing with banks.

Finally, the amendment limits deficiency judgments after certain "short sales" and requires banks and other financial institutions to include a conspicuous statement regarding any deficiency owed after a "short sale."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 420.

Bill read second time.

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

Amendment No. 238.

"SUMMARY—Makes various changes relating to the operation of certain facilities for long-term care. (BDR 40-158)"

"AN ACT relating to facilities for long-term care; ~~requiring the State Board of Health to establish a uniform procedure for the comprehensive assessment of patients or residents of certain facilities that provide long-term care;~~ requiring certain facilities that provide long-term care to establish certain policies concerning the readmission to the facility after a patient is transferred out of the facility; ~~making various changes relating to the staffing levels of certain facilities that provide long-term care;~~ requiring certain facilities that provide long-term care to post certain information about persons or entities that have ownership or control over the facility; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{Section 2 of this bill requires the State Board of Health to establish a uniform procedure to be used for conducting a comprehensive assessment to determine the level of care required by each patient or resident of a facility for intermediate care, facility for skilled nursing and residential facility for groups.}~~ **Section 3** of this bill requires a facility for intermediate care, facility for skilled nursing and residential facility for groups to adopt a written policy which establishes the length of time it will hold a bed for a patient or resident who must be temporarily transferred to another facility for medical reasons and which provides that such a patient or resident will be allowed to return to the first available bed if he or she does not return within the established time, if the facility is suitable for properly caring for the patient. **Section 3**

further requires the facility to inform a patient or resident of these policies regarding readmission after a temporary transfer for medical reasons when the patient or resident is admitted to the facility.

~~¶ Section 4 of this bill requires each facility for intermediate care, facility for skilled nursing and residential facility for groups to annually report its staffing levels to the Health Division of the Department of Health and Human Services and further requires the Health Division to establish staffing levels which it deems adequate to provide appropriate care for patients.]~~

Existing law requires certain information to be included on each license issued by the Health Division of the Department of Health and Human Services and requires the operator of a residential facility for groups to post his or her license in a conspicuous location in the facility. (NRS 449.085, 449.095) ~~[Section 7 of this bill requires the license issued to a facility for intermediate care, facility for skilled nursing or residential facility for groups to also contain the name and contact information regarding certain persons who have a certain level of ownership or control over the facility.]~~ **Section 9** of this bill ~~[further]~~ requires ~~[these facilities]~~ a facility for intermediate care and a facility for skilled nursing to post the license, ~~[and]~~ information concerning the organizational structure of the management of the facility and contact information for the administrator and the representative of the owner or operator of the facility in a conspicuous location in the facility, and requires a residential facility for groups to post the same contact information with respect to the facility.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ~~[The Board shall, by regulation, establish a uniform procedure to be used for conducting a comprehensive assessment of each patient or resident of a facility for intermediate care, facility for skilled nursing or residential facility for groups to determine the level of care required for each patient or resident that must include, without limitation, an objective assessment of the physical and mental condition of the patient or resident.]~~
(Deleted by amendment.)

Sec. 3. 1. *A facility for intermediate care, facility for skilled nursing and residential facility for groups shall adopt a written policy that establishes:*

(a) The number of days the facility will hold the bed of a patient or resident for his or her return if the patient or resident is transferred temporarily to a hospital or other facility for medical reasons; and

(b) That a patient or resident who is so transferred for a period that exceeds the period of the hold established pursuant to paragraph (a) will be allowed to resume his or her residency as soon as a bed becomes available, if the facility is suitable for properly caring for the patient upon his or her return.

2. Upon admission of a patient or resident to a facility for intermediate care, facility for skilled nursing or residential facility for groups, the facility shall provide to the patient or resident and, if applicable, to the legal representative of the patient or resident, a copy of the policy established pursuant to subsection 1.

~~Sec. 4. [1. On or before January 1 of each year, each facility for intermediate care, facility for skilled nursing and residential facility for groups shall submit to the Health Division an annual report of its staffing levels that it has maintained at the facility which includes, without limitation, the ratio of staff members who provide direct care to patients or residents.~~

~~2. The Health Division shall, by regulation, establish minimum staffing levels which it deems adequate to provide appropriate care to patients and residents of facilities for intermediate care, facilities for skilled nursing and residential facilities for groups.~~

~~3. The Health Division shall cause to be placed on the Internet website maintained by the Health Division the reports submitted pursuant to subsection 1 and the minimum staffing levels established pursuant to subsection 2.] (Deleted by amendment.)~~

Sec. 5. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, **and [sections 2,] section 3 [and 4] of this act** do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 6. NRS 449.080 is hereby amended to read as follows:

449.080 1. If, after investigation, the Health Division finds that the:

(a) Applicant is in full compliance with the provisions of NRS 449.001 to 449.240, inclusive [;], **and [sections 2,] section 3 [and 4] of this act;**

(b) Applicant is in substantial compliance with the standards and regulations adopted by the Board;

(c) Applicant, if he or she has undertaken a project for which approval is required pursuant to NRS 439A.100, has obtained the approval of the Director of the Department of Health and Human Services; and

(d) Facility conforms to the applicable zoning regulations,
 ➔ the Health Division shall issue the license to the applicant.

2. A license applies only to the person to whom it is issued, is valid only for the premises described in the license and is not transferable.

Sec. 7. [NRS 449.085 is hereby amended to read as follows:

~~449.085 1. Each license issued by the Health Division shall be in the form prescribed by the Division and shall contain:~~

~~{1.} (a) The name of the person or persons authorized to operate such licensed facility;~~

~~{2.} (b) The location of such licensed facility; and~~

~~{3.} (c) The number of beds authorized in such licensed facility, the nature of services offered and the service delivery capacity.~~

~~2. In addition to the information required pursuant to subsection 1, the license issued by the Health Division to the licensee of a facility for intermediate care, facility for skilled nursing or residential facility for groups shall contain the name, address and telephone number of:~~

~~(a) Each officer, director, member, partner, trustee, managing employee or member of any governing body of the facility; and~~

~~(b) Any other person or entity who:~~

~~(1) Exercises operational, financial or managerial control over the facility or any part thereof;~~

~~(2) Leases or subleases property to the facility or who holds at least a 5 percent financial interest in the property; or~~

~~(3) Provides services relating to the management, administration, accounting or finances of the facility. (Deleted by amendment.)~~

Sec. 8. NRS 449.091 is hereby amended to read as follows:

449.091 1. The Health Division may cancel the license of a medical facility or facility for the dependent and issue a provisional license, effective for a period determined by the Health Division, to such a facility if it:

(a) Is in operation at the time of the adoption of standards and regulations pursuant to the provisions of NRS 449.001 to 449.240, inclusive, **and [sections 2,] section 3 [and 4] of this act** and the Health Division determines that the facility requires a reasonable time under the particular circumstances within which to comply with the standards and regulations; or

(b) Has failed to comply with the standards or regulations and the Health Division determines that the facility is in the process of making the necessary changes or has agreed to make the changes within a reasonable time.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Health Division from refusing to renew or from revoking or suspending any license where the Health Division deems such action necessary for the health and safety of the occupants of any facility.

Sec. 9. NRS 449.095 is hereby amended to read as follows:

449.095 1. A person who operates a residential facility for groups shall:

~~{1.} (a) Post his or her license to operate the residential facility for groups; and~~

~~{2.} (b) Post the rates for services provided by the residential facility for groups. ~~1.~~; and~~

(c) Post contact information for the administrator and the designated representative of the owner or operator of the facility,

↳ in a conspicuous place in the residential facility for groups.

2. A person who operates a facility for intermediate care or facility for skilled nursing shall:

(a) Post his or her license to operate the facility; ~~in a conspicuous place in the facility; and~~

(b) Post the organizational structure of the management of the facility ~~;~~ and

(c) Post contact information for the administrator and the designated representative of the owner or operator of the facility,

↳ in a conspicuous place in the facility for intermediate care or facility for skilled nursing.

Sec. 10. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, **and ~~sections 2, 3 and 4~~ of this act** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, **and ~~sections 2, 3 and 4~~ of this act** or of any other law of this State or of the standards, rules and regulations adopted thereunder.

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

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

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

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

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

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

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

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The

Health Division shall provide to a facility for the care of adults during the day:

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

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

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

➤ The facility shall make the information available to the public pursuant to NRS 449.2486.

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

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

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

Sec. 11. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, ~~and sections 2, 3 and 4 of this act~~ **and section 3 of this act** or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, *and ~~sections 2, 3 and 4~~ of this act* or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 12. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 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975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000~~, *and ~~sections 2, 3 and 4~~ of this act*.

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 13. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive ~~1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 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978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000~~, *and ~~sections 2, 3 and 4~~ of this act*.

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.037,

↳ to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or a designee of the State Health Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for

groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.

Sec. 14. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, ~~and sections 2, 3 and 4 of~~ **section 3** ~~of this act~~ as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

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

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

Sec. 15. ~~[The State Board of Health and the Health Division of the Department of Health and Human Services shall, on or before~~

~~December 31, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.~~ **(Deleted by amendment.)**

Sec. 16. This act becomes effective on July 1, 2011.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 238 revises the provisions to Senate Bill No. 420 by specifying that a resident may return to a facility after being temporarily transferred to another facility for medical reasons only if the facility is suitable for properly caring for the patient.

It requires a facility for intermediate care and a facility for skilled nursing to post the license, information concerning the structure of management, and contact information for the administrator and the representative of the owner or operator of the facility in a conspicuous location. In addition, residential facilities for groups are required to post the same contact information with respect to the facility.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 487.

Bill read second time.

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

Amendment No. 487.

"SUMMARY—Revises provisions relating to the award of a contract for a public work to a specialty contractor. (BDR 28-394)"

"AN ACT relating to public works; revising provisions relating to the award of a contract for a public work to a specialty contractor; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a specialty contractor, which is defined as a contractor whose operations consist of the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or craft, is allowed to take and execute a contract involving the use of two or more crafts or trades if the work performed in the crafts or trades, other than the crafts or trades in which the specialty contractor is licensed, is incidental and supplemental to the performance of the work in the craft for which the specialty contractor is licensed. (NRS 624.215, 624.220) With respect to public works, existing law authorizes the State or a local government to award a contract for a public work to a specialty contractor if: (1) the majority of the work performed under the contract consists of the specialty contracting for which the specialty contractor is licensed; and (2) the public work is not part of a larger public work. However, any work to be performed under such a contract that is outside the scope of the license of the specialty contractor is required to be performed by an appropriate subcontractor. (NRS 338.139, 338.148) **This bill limits the applicability of those provisions to public works for which the cost is less than \$250,000.** This bill also prescribes the circumstances

under which a public body may award a contract to a specialty contractor ~~that~~ **for a public work for which the cost is \$250,000 or more and which** involves the performance of work that is outside the scope of the specialty contractor's license. This bill also provides for the certification of specialty contractors by the State Contractors' Board with respect to such contracts.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in this section, a public body or its authorized representative may award a contract for a public work for which the cost is \$250,000 or more pursuant to NRS 338.1375 to 338.13895, inclusive, to a specialty contractor if the public body or its authorized representative determines that:

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed pursuant to chapter 624 of NRS; and

(b) The public work to which the contract pertains is not part of a larger public work.

2. If a public work for which the cost is \$250,000 or more involves the performance of work outside the scope of the specialty contractor's license, the public body or its authorized representative may not award a contract for the public work to the specialty contractor unless the public body or its authorized representative determines that:

(a) The work that is outside the scope of the specialty contractor's license is incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform, as provided for in subsection 4 of NRS 624.220;

(b) The State Contractors' Board has issued a certification to the specialty contractor pursuant to subsection 3; or

(c) The specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS.

3. Upon application by a specialty contractor, the State Contractors' Board may issue to a qualified specialty contractor a certification which allows the specialty contractor to enter into contracts to be awarded pursuant to NRS 338.1375 to 338.13895, inclusive, for public works for which the cost is \$250,000 or more and which involve the performance of work which is outside the scope of the specialty contractor's license and which is more than incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform. A specialty contractor is qualified to receive a certification pursuant to this subsection if:

(a) The specialty contractor is licensed for his or her specialty pursuant to chapter 624 of NRS; and

(b) The specialty contractor has successfully completed at least one public work in the State of Nevada pursuant to NRS 338.1375 to 338.13895, inclusive, which involved the use of two or more crafts or trades unrelated to his or her specialty.

4. Except as otherwise provided in this section, if a public body or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.1375 to 338.13895, inclusive, for a public work for which the cost is \$250,000 or more, all work to be performed on the public work that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who:

(a) Is licensed to perform such work; and

(b) At the time of the performance of the work, is not on disqualified status with the State Public Works Board pursuant to NRS 338.1376.

5. If a specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS, nothing in this section shall be construed to prohibit the specialty contractor who is acting in the capacity of a prime contractor from performing work himself or herself on the public work that is outside the scope of the specialty contractor's license as otherwise allowed by subsection 3 of NRS 624.215.

6. The State Contractors' Board shall adopt regulations prescribing the procedure for the certification of specialty contractors provided in subsection 3.

Sec. 3. 1. Except as otherwise provided in this section, a local government or its authorized representative may award a contract for a public work for which the cost is \$250,000 or more pursuant to NRS 338.143 to 338.1475, inclusive, to a specialty contractor if the local government or its authorized representative determines that:

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed pursuant to chapter 624 of NRS; and

(b) The public work to which the contract pertains is not part of a larger public work.

2. If a public work for which the cost is \$250,000 or more involves the performance of work outside the scope of the specialty contractor's license, the local government or its authorized representative may not award a contract for the public work to the specialty contractor unless the local government or its authorized representative determines that:

(a) The work that is outside the scope of the specialty contractor's license is incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform, as provided for in subsection 4 of NRS 624.220;

(b) The State Contractors' Board has issued a certification to the specialty contractor pursuant to subsection 3; or

(c) The specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS.

3. Upon application by a specialty contractor, the State Contractors' Board may issue to a qualified specialty contractor a certification which allows the specialty contractor to enter into contracts to be awarded pursuant to NRS 338.143 to 338.1475, inclusive, for public works for which the cost is \$250,000 or more and which involve the performance of work which is outside the scope of the specialty contractor's license and which is more than incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform. A specialty contractor is qualified to receive a certification pursuant to this subsection if:

(a) The specialty contractor is licensed for his or her specialty pursuant to chapter 624 of NRS; and

(b) The specialty contractor has successfully completed at least one public work in the State of Nevada pursuant to NRS 338.143 to 338.1475, inclusive, which involved the use of two or more crafts or trades unrelated to his or her specialty.

4. Except as otherwise provided in this section, if a local government or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, for a public work for which the cost is \$250,000 or more, all work to be performed on the public work that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who is licensed to perform such work.

5. If a specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS, nothing in this section shall be construed to prohibit the specialty contractor who is acting in the capacity of a prime contractor from performing work himself or herself on the public work that is outside the scope of the specialty contractor's license as otherwise allowed by subsection 3 of NRS 624.215.

6. The State Contractors' Board shall adopt regulations prescribing the procedure for the certification of specialty contractors provided in subsection 3.

Sec. 4. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker

or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, **and section 2 of this act** to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

9. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

10. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

11. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

12. "Offense" means failing to:

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or
- (d) Comply with subsection 4 or 5 of NRS 338.070.

13. "Prime contractor" means a contractor who:

- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his or her own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➡ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148 ~~or~~ or section 2 or 3 of this act.

14. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

15. "Public work" means any project for the new construction, repair or reconstruction of:

- (a) A project financed in whole or in part from public money for:
 - (1) Public buildings;
 - (2) Jails and prisons;
 - (3) Public roads;
 - (4) Public highways;
 - (5) Public streets and alleys;
 - (6) Public utilities;
 - (7) Publicly owned water mains and sewers;
 - (8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

16. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

17. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➤ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

18. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➤ for the provision of labor, materials, equipment or supplies for a construction project.

19. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

20. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

21. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

22. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 5. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive ~~and~~, **and section 2 of this act;**

(b) NRS 338.143 to 338.148, inclusive, ~~§1~~, ***and section 3 of this act;***

(c) NRS 338.169 to 338.1699, inclusive; or

(d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

~~§Section 1-1~~ **Sec. 6.** NRS 338.139 is hereby amended to read as follows:

338.139 1. A public body or its authorized representative may award a contract for a public work ***for which the cost is less than \$250,000*** pursuant to NRS 338.1375 to 338.13895, inclusive, to a specialty contractor if ~~§1~~ ***the public body or its authorized representative determines that:***

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed ~~§1~~ ***pursuant to chapter 624 of NRS; and***

(b) The public work to which the contract pertains is not part of a larger public work.

2. ~~§If a contract to which subsection 1 applies involves the performance of work outside the scope of the specialty contractor's license, the public body or its authorized representative may not award a contract to the specialty contractor unless the public body or its authorized representative determines that:~~

~~(a) The work that is outside the scope of the specialty contractor's license is incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform, as provided for in subsection 4 of NRS 624.220;~~

~~(b) The State Contractors' Board has issued a certification to the specialty contractor pursuant to subsection 3; or~~

~~(c) The specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS.~~

3. ~~Upon application by a specialty contractor, the State Contractors' Board may issue to a qualified specialty contractor a certification which allows the specialty contractor to enter into contracts to be awarded pursuant to NRS 338.1375 to 338.13895, inclusive, that involve the performance of work which is outside the scope of the specialty contractor's license and which is more than incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform. A specialty contractor is qualified to receive a certification pursuant to this subsection if:~~

~~(a) The specialty contractor is licensed for his or her specialty pursuant to chapter 624 of NRS; and~~

~~(b) The specialty contractor has successfully completed at least one public work in the State of Nevada pursuant to NRS 338.1375 to 338.13895, inclusive, which involved the use of two or more crafts or trades unrelated to his or her specialty.~~

~~4.~~ **Except as otherwise provided in this section, if** a public body or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.1375 to 338.13895, inclusive, all work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who:

(a) Is licensed to perform such work; and

(b) At the time of the performance of the work, is not on disqualified status with the State Public Works Board pursuant to NRS 338.1376.

~~f 5. Nothing in this section shall be construed to prohibit a specialty contractor who is also licensed as a general building contractor pursuant to chapter 624 of NRS from entering into a contract for a public work or performing work himself or herself on a public work as allowed by subsection 3 of NRS 624.215.~~

~~6. The State Contractors' Board shall adopt regulations prescribing the procedure for the certification of specialty contractors.~~

3. If a specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS, nothing in this section shall be construed to prohibit the specialty contractor who is acting in the capacity of a prime contractor from performing work himself or herself on the public work that is outside the scope of the specialty contractor's license as otherwise allowed by subsection 3 of NRS 624.215.

~~[Sec. 2.]~~ **Sec. 7.** NRS 338.148 is hereby amended to read as follows:

338.148 1. A local government or its authorized representative may award a contract for a public work **for which the cost is less than \$250,000** to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, if ~~[.]~~ **the local government or its authorized representative determines that:**

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed ~~[.]~~ **pursuant to chapter 624 of NRS;** and

(b) The public work to which the contract pertains is not part of a larger public work.

~~2. If a contract to which subsection 1 applies involves the performance of work outside the scope of the specialty contractor's license, the local government or its authorized representative may not award a contract to the specialty contractor unless the local government or its authorized representative determines that:~~

~~(a) The work that is outside the scope of the specialty contractor's license is incidental and supplemental to the performance of the work that the~~

~~specialty contractor is licensed to perform, as provided for in subsection 4 of NRS 624.220;~~

~~(b) The State Contractors' Board has issued a certification to the specialty contractor pursuant to subsection 3; or~~

~~(c) The specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS.~~

~~3. Upon application by a specialty contractor, the State Contractors' Board may issue to a qualified specialty contractor a certification which allows the specialty contractor to enter into contracts to be awarded pursuant to NRS 338.143 to 338.1475, inclusive, that involve the performance of work which is outside the scope of the specialty contractor's license and which is more than incidental and supplemental to the performance of the work that the specialty contractor is licensed to perform. A specialty contractor is qualified to receive a certification pursuant to this subsection if:~~

~~(a) The specialty contractor is licensed for his or her specialty pursuant to chapter 624 of NRS; and~~

~~(b) The specialty contractor has successfully completed at least one public work in the State of Nevada pursuant to NRS 338.143 to 338.1475, inclusive, which involved the use of two or more crafts or trades unrelated to his or her specialty.~~

~~4. Except as otherwise provided in this section, if a local government or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, all work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who is licensed to perform such work.~~

~~f 5. Nothing in this section shall be construed to prohibit a specialty contractor who is also licensed as a general building contractor pursuant to chapter 624 of NRS from entering into a contract for a public work or performing work himself or herself on a public work as allowed by subsection 3 of NRS 624.215.~~

~~6. The State Contractors' Board shall adopt regulations prescribing the procedure for the certification of specialty contractors.~~

3. If a specialty contractor is also licensed as a general building contractor pursuant to chapter 624 of NRS, nothing in this section shall be construed to prohibit the specialty contractor who is acting in the capacity of a prime contractor from performing work himself or herself on the public work that is outside the scope of the specialty contractor's license as otherwise allowed by subsection 3 of NRS 624.215.

~~{Sec. 3.}~~ **Sec. 8.** NRS 624.220 is hereby amended to read as follows:

624.220 1. The Board shall adopt regulations necessary to effect the classification and subclassification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to

those in which the contractor is classified and qualified to engage as defined by NRS 624.215 and the regulations of the Board.

2. The Board shall limit the field and scope of the operations of a licensed contractor by establishing a monetary limit on a contractor's license, and the limit must be the maximum contract a licensed contractor may undertake on one or more construction contracts on a single construction site or subdivision site for a single client. The Board may take any other action designed to limit the field and scope of the operations of a contractor as may be necessary to protect the health, safety and general welfare of the public. The limit must be determined after consideration of the factors set forth in NRS 624.260 to 624.265, inclusive.

3. A licensed contractor may request that the Board increase the monetary limit on his or her license, either on a permanent basis or for a single construction project. A request submitted to the Board pursuant to this subsection must be in writing on a form prescribed by the Board and accompanied by such supporting documentation as the Board may require. If a request submitted pursuant to this section is for a single construction project, the request must be submitted to the Board at least 2 working days before the date on which the licensed contractor intends to submit a bid for the project.

4. ~~{Subject}~~ **Except as otherwise provided in NRS 338.139 and 338.148 and sections 2 and 3 of this act, and subject** to the provisions of regulations adopted pursuant to subsection 5, nothing contained in this section prohibits a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which the specialty contractor is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

5. The Board shall adopt regulations establishing a specific limit on the amount of asbestos that a licensed contractor with a license that is not classified for the abatement or removal of asbestos may abate or remove pursuant to subsection 4.

~~{Sec. 4.}~~ **Sec. 9.** This act becomes effective ~~{on July 1, 2011.}~~ **upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.**

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 487 to Senate Bill No. 487 amends the bill as a whole and identifies the circumstances in which a specialty contractor can contract for a public work project with a price of \$250,000 or more and that is outside the scope of the contractor's specialty license.

It provides that a public body or local government can award a contract for such a public work to a specialty contractor if: the project is not part of a larger project work project; and the majority of the work to be performed on the project consists of specialty contracting for which the contractor is licensed.

It specifies that a public body or a local government may award a contract for a public works project over \$250,000 to a specialty contractor for work outside of his or specialty if: such work is incidental and supplemental to the project; the specialty contractor has received a certification from the State Contractors' Board allowing such work; or he or she is also licensed as a general building contractor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 12.

Resolution read second time and ordered to third reading.

Assembly Bill No. 18.

Bill read second time and ordered to third reading.

Assembly Bill No. 147.

Bill read second time and ordered to third reading.

Assembly Bill No. 156.

Bill read second time and ordered to third reading.

Assembly Bill No. 217.

Bill read second time and ordered to third reading.

Assembly Bill No. 464.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 113, 168, 212, 278, 313, 340, 347, be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Horsford moved to dispense with reading of all statements and place all statements in the Journal.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 10.

Bill read third time.

Remarks by Senator Copenig.

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

Senate Bill No. 10 requires the State Board of Health to adopt standards for determining whether there are an adequate number of certain types of health care cases in the community to be served to support approving an amendment to the license of certain medical or other related facilities to add such a service. The Health Division must apply these standards in making a determination of whether to approve amending a license to add such a service.

Existing law requires certain licensed medical or other related facilities to obtain the approval of the Health Division to amend their licenses to add certain services to the licenses (NRS 449.087). Those services are for the intensive care of newborn babies; the treatment of burns; the transplant of organs; the performance of open-heart surgery; and a center for the treatment of trauma victims.

This measure is effective on July 1, 2011.

Roll call on Senate Bill No. 10:

YEAS—21.

NAYS—None.

Senate Bill No. 10 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 15.

Bill read third time.

Remarks by Senator Breeden.

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

Senate Bill No. 15 clarifies that the Department of Motor Vehicles must cancel the previously reinstated license of a person who has been subsequently convicted of driving under the influence of intoxicating liquor or a controlled substance if that person does not pay the required civil penalty within 30 days of being notified that the license will be cancelled.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 15:

YEAS—21.

NAYS—None.

Senate Bill No. 15 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 24.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 24 revises the procedure for issuing a writ of execution in a justice court by authorizing the clerk of the court, in addition to the Justice of the Peace, to issue and renew writs of execution. The measure also modifies the information that is contained therein.

Court clerks are already authorized to issue writs of execution in the District Courts.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 24:

YEAS—21.

NAYS—None.

Senate Bill No. 24 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 26.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 26 pertains to the appointment of public defenders and the collection of fines, fees, and other costs associated with adult and juvenile defendants. The bill provides standards to determine whether the parent or guardian of a child is required to pay for the child's legal representation in juvenile court, if the court has appointed an attorney to represent the child, and

requires the juvenile court to make a finding that a parent or guardian of the child is indigent under certain circumstances.

The measure authorizes the court to enter a civil judgment against a criminal defendant for the amount of any delinquent fines, administrative assessments, fees, and restitution imposed. The juvenile court may enter a similar civil judgment against a parent or child.

In both instances, the civil judgment may be treated the same as a judgment for money in a civil action and a person who fails to satisfy the judgment may be found in contempt. The court may include satisfaction of a civil judgment entered by the juvenile court in any sentence imposed by the court against a defendant transferred from the juvenile court.

The procedure by which a juvenile court judge approves or rejects the recommendation of master or directs a hearing *de novo* is revised by the bill.

Finally, Senate Bill No. 26 authorizes a juvenile court to establish a restitution contribution fund to provide restitution to victims of unlawful acts committed by children.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 26:

YEAS—21.

NAYS—None.

Senate Bill No. 26 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 38.

Bill read third time.

Remarks by Senator Denis.

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

Senate Bill No. 38 makes several changes with regard to the authority of the Superintendent of Public Instruction to distribute the quarterly apportionment paid to school districts and certain public schools. Under the provisions of the bill, the State Superintendent is authorized to deduct from the apportionment a claim due to the sponsor of a charter school, or to repay a claim by a district, charter school, or university school that was later found to be unearned, illegal, or excessive. In addition, the Superintendent may withhold the entire amount of the apportionment to one of these entities for the failure to submit a report required by statute.

Any withholding of an apportionment that is the result of a charter school failing to submit a report through the sponsor, would only be for the amount due to the charter school. An appeals process is provided should the affected entity wish to challenge such actions. The Superintendent also is authorized to suspend the "hold harmless" provisions for calculating pupil enrollment if the Department determines that the school district or charter school deliberately causes a decline in enrollment in order to receive a higher apportionment.

Finally, the bill authorizes an immediate adjustment to quarterly apportionments if a Department audit determines a pupil is not enrolled in or attending school.

The bill was requested by the State Department of Education to clarify its authority concerning certain acts, whether unintentional or deliberate, that affect quarterly apportionments from the Distributive School Account.

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 38:

YEAS—20.

NAYS—Kieckhefer.

Senate Bill No. 38 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 40.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 40 requires the State Public Works Board to adopt regulations concerning the construction, maintenance, operation, and safety of certain building and structures on the property of this State. The Deputy Manager for Compliance and Code Enforcement shall make recommendations to the Board concerning these regulations.

The bill also provides that those State agencies which currently adopt their own construction, maintenance, and safety building regulations shall not adopt such regulations that conflict with regulations adopted by the State Public Works Board.

Any existing regulations for those State agencies that adopt their own building regulations remain in effect until the State Public Works Board adopts its own regulations pursuant to this measure.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 40:

YEAS—21.

NAYS—None.

Senate Bill No. 40 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 53.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 53 excludes certain seasonal or temporary recreation programs, and certain out-of-school recreation programs, from State and local governmental child care facility licensing requirements.

The measure requires that a local government seeking to operate an out-of-school recreation program obtain a permit from the Bureau of Services for Child Care within the Department of Health and Human Services. To obtain the permit, the local government must complete an application, pay a fee, and meet certain other requirements. Out-of-school recreation programs must comply with health and safety standards, and other requirements relating to participant safety. Further, the measure establishes certain requirements related to program staffing, enrollment limits, record keeping, and inspections.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 53:

YEAS—21.

NAYS—None.

Senate Bill No. 53 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 57.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 57 expands the circumstances in which a court is authorized to issue a warrant to take physical custody of a child in a divorce proceeding. During a proceeding to establish custody of a child or to enforce or modify a child custody determination, a court may issue a warrant to take physical custody of the child if there is probable cause to believe that the child has been abducted. If the court determines that exigent circumstances exist, such as imminent danger of the child's removal from Nevada or serious physical harm, the court must, before issuing the warrant, hold an *ex parte* hearing at which the party seeking the warrant is present but the party alleged to have committed the abduction is not. If no exigent circumstances exist, both parties must be given the opportunity to be heard.

The warrant issued by the court must determine placement of the child pending final relief.

This measure was brought by the Office of the Attorney General to bring Nevada into conformance with standards of the Fourth Amendment of the United States Constitution concerning probable cause for "pick-up orders" issued by family court judges commanding the return of a child from a non-custodial parent.

This measure is effective on July 1, 2011.

Roll call on Senate Bill No. 57:

YEAS—21.

NAYS—None.

Senate Bill No. 57 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 66.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 66 authorizes the Attorney General to organize or sponsor multidisciplinary teams to review the death of a victim of domestic violence under certain circumstances. The purpose of these teams is to examine trends and patterns of domestic violence deaths in Nevada; determine the number and type of incidents to be reviewed; make policy and other recommendations for prevention of such deaths; educate the public, victim support providers, and policymakers concerning domestic violence crimes; and recommend policies, practices, and services to encourage collaboration and reduce domestic violence deaths. Such teams may also meet and share information with similar teams created to review the death of a child.

The teams created by this measure will include a representative of the Attorney General, law enforcement, the district attorney, the coroner, social service providers, and others as necessary. The results of a team's review are not admissible in any civil action or proceeding.

The measure also expands the authority of a multidisciplinary team created under existing statute by the court or agency of local government to obtain relevant information and records and to meet with others who may have relevant information.

Finally, the measure adds multidisciplinary teams to the list of entities authorized to receive data or information from certain reports and investigations concerning the abuse or neglect of children, and requires the State Board of Health to allow such teams to use death certificates in the same manner as the Board allows a multidisciplinary team to review the death of a child.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 66:

YEAS—21.

NAYS—None.

Senate Bill No. 66 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 81.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 81 requires the State Controller to pay accounts payable electronically, unless doing so would cause undue hardship to the payee. In addition, Senate Bill No. 81 changes the statute of limitation to four years for when the State Controller may take certain action to collect debts owed to the State.

The provisions in the bill relating to the statute of limitations for debt collection conform with those adopted in Senate Bill No. 31 of the 2011 76th Legislative Session, which was approved by the Nevada State Senate on March 18, 2011.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 81:

YEAS—21.

NAYS—None.

Senate Bill No. 81 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 106.

Bill read third time.

Remarks by Senator Kihuen.

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

Senate Bill No. 106 expands the use of trading by Nevada Magazine. It allows trading for services or products that promote or benefit the magazine, including, without limitation, circulation services, sponsorship of awards, memberships, and entry fees for trade shows.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 106:

YEAS—21.

NAYS—None.

Senate Bill No. 106 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 110.

Bill read third time.

Remarks by Senator Lee

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

Senate Bill No. 110 establishes a new business license category and fee structure in Clark County and those cities within Clark County with populations of 150,000 or more. The measure is specific to contractors licensed pursuant to Chapter 624 of the *Nevada Revised Statutes* and affords such contractors a single business license to conduct their business throughout the Las Vegas Valley.

The bill requires the county and cities to enter into an interlocal agreement for the establishment of such a business license and the necessary rights, obligations, and

responsibilities associated with the license. Clark County and the affected cities must also adopt ordinances that: prescribe the process for obtaining such a business license; set the appropriate licensing fees; and provide any other requirements necessary to establish the system for issuing the business license. The bill also specifies that in order for a person to be eligible to obtain the business license, he or she must meet whatever requirements are set forth in the ordinance and satisfy other requirements relating to the maintenance of the business in one location within either the unincorporated county or one of the incorporated cities. In addition, a contractor who obtains such a business license is subject to all other licensing and permitting requirements of the State, counties, and cities in which the licensee does business.

Clark County and the those cities in Clark County with populations of 150,000 or more must enter into the required interlocal agreements and enact the required ordinances on or before one year after the effective date of the measure.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 110:

YEAS—21.

NAYS—None.

Senate Bill No. 110 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 112.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 112 allows the juvenile court to review certain records relating to the custody of a child or the involvement of a child with an agency that provides child welfare services when it has access to those records. The amendment also limits the use of such records by the juvenile court to assist the court in determining the appropriate placement or plan of treatment for the child.

This measure is effective on July 1, 2011.

Roll call on Senate Bill No. 112:

YEAS—21.

NAYS—None.

Senate Bill No. 112 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 127.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 127 provides that if a ward is a veteran who receives funds from the Department of Veterans Affairs, all money payable to the ward from other sources must be handled by the guardian in the same manner as the payments from the Department unless doing so is inconsistent with federal law.

The measure also reduces from 5 percent to 4 percent the annual allowable compensation for a guardian of a veteran ward and eliminates the court's discretion to increase the amount for extraordinary services.

Finally, Senate Bill No. 127 increases from five to ten the number of veteran wards a guardian may serve, unless authorized by the Department to serve more than ten.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 127:

YEAS—21.

NAYS—None.

Senate Bill No. 127 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 130.

Bill read third time.

Remarks by Senator Breeden.

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

Senate Bill No. 130 revises the effective date of most provisions relating to the Department of Motor Vehicles' off-highway vehicle titling program to July 1, 2012, or 30 days after the date the Department notifies the public it is ready to begin the program, whichever occurs first. The bill transfers responsibility to approve the designation of any portion of a State highway as permissible for off-highway vehicle use from the Department of Motor Vehicles to the Department of Transportation. Senate Bill No. 130 also authorizes the Department of Motor Vehicles to release certain personal information relating to the title and registration of off-highway vehicles.

This bill is effective upon passage and approval.

Roll call on Senate Bill No. 130:

YEAS—21.

NAYS—None.

Senate Bill No. 130 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 142.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 142 makes various changes to laws governing the towing and storage of motor vehicles. The bill authorizes an insurer, who has obtained consent from the vehicle owner or the owner's agent, to obtain possession of a motor vehicle from a tow car operator. To obtain possession, the insurer must provide the tow car operator with a consent form that satisfies the requirements established by the Commissioner of Insurance, Department of Business and Industry.

If a motor vehicle is towed and stored at the request of a law enforcement officer after an accident, a tow car operator shall not satisfy any lien or impose any administrative or processing fee for four business days after the vehicle is placed in storage. A tow car operator may not impose any fee relating to the auction of a towed motor vehicle until certain notice requirements are met.

If a vehicle is a total loss and if the insurer provides notice, a vehicle owner or an agent of an owner may consent to a vehicle being towed and placed in storage at the insurer's direction and expense.

If the vehicle is repairable, an owner or authorized agent may consent to the vehicle being towed to a repair shop designated by the owner or agent.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 142:

YEAS—21.

NAYS—None.

Senate Bill No. 142 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 144.

Bill read third time.

Remarks by Senator Breeden.

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

Senate Bill No. 144 requires a garage performing repairs on a motor vehicle to check the air pressure in each tire on the vehicle and adjust the pressure to the manufacturers' specifications.

The bill also imposes penalties for failure to comply with these requirements.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 144:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson, Sattelmeyer—9.

Senate Bill No. 144 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 152.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 152 makes several changes to the conduct of insurance business. The bill authorizes the use of an automated claims adjudication system with claims arising under an insurance contract for portable electronic insurance coverage. It specifies additional persons who are not considered to be adjusters for purposes of the Nevada Insurance Code; and it revises provisions concerning applications for licensure submitted by an applicant that is a firm or corporation rather than a natural person.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 152:

YEAS—21.

NAYS—None.

Senate Bill No. 152 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 154.

Bill read third time.

Remarks by Senator Breeden and Brower.

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

SENATOR BREEDEN:

Senate Bill No. 154 requires the Department of Motor Vehicles to develop a special license plate for family members of a person who died as a result of injuries sustained while on active duty in the Armed Forces of the United States.

This bill is effective on October 1, 2011.

SENATOR BROWER:

I want to commend my colleague for bringing this bill forward. As a country, we lose sight of the fact that every week some member of our armed forces dies or is wounded in the ongoing conflicts. Unless you read the list in the New York Times every day, you do not understand that it is happening. This is a small reminder, but one way to remind ourselves, as a people, that it is happening. The number of wounded far outpaces the number killed in action. Those wounds can be devastating. They affect real people and real families in our State and around the country every day. Thank you, I urge your support.

Roll call on Senate Bill No. 154:

YEAS—21.

NAYS—None.

Senate Bill No. 154 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 159.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 159 revises the information provided by the Department of Corrections (DOC) to inmates upon release, whether the release is by expiration of sentence, pardon, or parole. The bill requires that upon release, inmates must be given information about obtaining employment, including programs and organizations that offer workplace bonds; and acquiring a valid driver's license or identification necessary for obtaining employment.

For those on probation, the measure allows the court to include a requirement that any earnings of the probationer be held in a trust administered by a court-designated trustee. The trust would be used to pay for restitution, child support, and other obligations as ordered by the court.

Finally, the bill expands the list of felons who may be ordered by the court to participate in an alternative sentence program, treatment, or other activity as a condition of probation. Currently, the law allows those found guilty of a category C, D, or E felony to be ordered into such programs. Senate Bill No. 159 would also include allowing those found guilty of a non-violent category B felony into those same programs, at the court's discretion.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 159:

YEAS—21.

NAYS—None.

Senate Bill No. 159 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 182.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 182 revises provisions governing the Solar Thermal Systems Demonstration Program. The bill requires an installer of these systems to possess an appropriate license issued by the Nevada State Contractors' Board, and removes a requirement that each solar thermal system have a meter or other measuring device installed.

The bill specifies which performance certification a solar thermal system must have in order to be eligible for a rebate pursuant to the Demonstration Program.

Senate Bill No. 182 also clarifies that the rebates are provided by the utility rather than the Public Utilities Commission of Nevada.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 182:

YEAS—21.

NAYS—None.

Senate Bill No. 182 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 187.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 187 replaces the requirement that a prisoner convicted of certain sexual offenses may only be released on parole by the Board of Parole Commissioners with certification by a panel that the prisoner does not represent a high risk to reoffend. Instead, the bill requires that before being granted or continued on parole, the prisoner must be evaluated by a panel within 120 days before a parole hearing. The panel must adopt regulations to ensure that the evaluations are based on currently accepted standards of assessment, contain a statement about other relevant information known about the prisoner, and rate the prisoner's risk to reoffend.

The measure also authorizes the Board to require an evaluation of a sex offender to assist in determining parole and clarifies that a prisoner does not have a right to an evaluation or reevaluation more frequently than the prisoner's regularly scheduled parole hearings.

Finally, Senate Bill No. 187 requires that certain meetings of the panel are subject to the Open Meeting Law.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 187:

YEAS—21.

NAYS—None.

Senate Bill No. 187 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 194.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 194 cites the importance of full disclosure to potential members of class action lawsuits in order for the members to make an informed decision whether to remain a member of the class and participate in the suit or to opt out of the lawsuit.

The measure urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in class actions to make all of the disclosures required under the Federal Rules of Civil Procedure to each member of the class.

Effective in 2009, the Federal Rules of Civil Procedure require that notices to class members must concisely and clearly state the following seven points: the nature of the action; the definition of the class certified; the class claims, issues, or defenses; that a class member may enter an appearance through counsel if the member desires; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on class members.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 194:

YEAS—21.

NAYS—None.

Senate Bill No. 194 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 196.

Bill read third time.

Remarks by Senator Denis.

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

Senate Bill No. 196 makes various changes concerning empowerment schools. The measure removes the sunset on the empowerment schools' statutes adopted by the 2007 74th Legislature and eliminates the statutory cap limiting the number of empowerment schools to 100 schools statewide.

This measure will provide additional time for the operation of empowerment schools for evaluation purposes, and allows for a possible future expansion of such schools. Due to the economic downturn, funds for the empowerment schools pilot program authorized by the 2007 74th Legislature were reverted prior to the start of the program. Although some school districts have established a limited program, according to testimony, future legislatures may want to provide the necessary resources to operate and evaluate the program statewide. Since the statutes concerning empowerment schools are due to expire on June 30, 2011, the bill will extend the program by removing the sunset provision.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 196:

YEAS—21.

NAYS—None.

Senate Bill No. 196 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 198.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 198 makes various changes to the regulation of banks and retail trust companies. The bill prohibits a bank that acquires real property through the collection of debts from holding the property for longer than five years. A bank may request, and the Commissioner of Financial Institutions, Department of Business and Industry, may grant, an extension of not more than five additional years. The Commissioner shall not grant more than one extension. The bill also removes the requirement that a bank annually charge off a certain percentage of the value of such real property.

The bill makes certain changes in the allowable investments of stockholders' equity and the minimum capital requirements for a retail trust company.

The Commissioner may approve locating a branch of a retail trust company in another state if the company provides written documentation from an appropriate state agency that the company is authorized to do business in that state.

Senate Bill No. 198 makes certain changes in the procedure for denying an application for licensure as a retail trust company and for removal of an official or employee of such a company.

This bill is effective upon passage and approval.

Roll call on Senate Bill No. 198:

YEAS—21.

NAYS—None.

Senate Bill No. 198 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 200.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 200 requires the manager or board of an association of a time-share plan to maintain a complete list of the names and addresses of all time-share owners, which must be updated not less than quarterly. Unless the declaration or bylaws of the time-share plan provide otherwise, and notwithstanding any law to the contrary, personal information about the owners may not be published or provided to another person without prior written consent of the owner whose information is requested. Before obtaining consent, the manager or executive board must provide the owner with the option to limit the information published, as well as a written disclosure concerning the effect of publishing personal information.

The manager or board must also mail materials to time-share owners at the request of an owner under certain circumstances and establish procedures for mailings by the owners themselves.

As an alternative to publishing in a newspaper the notice of a sale to satisfy a lien, Senate Bill No. 200 allows for such notices and a specific declaration to be posted on an Internet website for three consecutive weeks, and for a statement to be published in the newspaper informing interested parties that the notice of sale is posted on the Internet website.

The bill includes similar alternative publishing provisions for the sale of real property in foreclosure under a deed of trust.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 200:

YEAS—21.

NAYS—None.

Senate Bill No. 200 having received a constitutional majority, Mr. President declared it passed, as amended.

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 3:27 p.m.

SENATE IN SESSION

At 5:10 p.m.

President Pro Tempore Schneider presiding.

Quorum present.

Senate Bill No. 201.

Remarks by Senators Wiener, McGinness and Horsford.

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

SENATOR WIENER:

Senate Bill No. 201 authorizes the Attorney General to establish a program to mediate certain complaints from offenders. Such complaints are limited to those regarding an administrative act alleged to be contrary to law or policy of the Department of Corrections, or significant issues concerning the health and safety of offenders and other matters for which there is no effective administrative remedy.

If a mediation program is established, the Attorney General must create necessary regulations and procedures, and prepare an annual report to the Board of Prison Commissioners describing the complaints, the dollar amount of the claims, the number of complaints resolved through the program, the amount paid to offenders to resolve those claims, and the savings realized by the program.

This measure is effective on October 1, 2011.

SENATOR MCGINNESS:

I had some concerns when we looked at this bill in Committee. We did not see the fiscal note until now. I am concerned that the fiscal note is substantial. Does the Chair have any further information or not?

SENATOR HORSFORD:

I do not have a fiscal note identified.

Senator Horsford moved that Senate Bill No. 201 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

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 5:13 p.m.

SENATE IN SESSION

At 5:14 p.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 209.

Bill read third time.

Remarks by Senator Copenig.

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

Senate Bill No. 209 requires the Health Division to make certain annual reports concerning sentinel events available on the Department of Health and Human Services' website. The bill also requires the Health Division to report publicly, in a format which allows comparisons of medical facilities, certain information that is submitted to the Internet-based surveillance system established and maintained by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and analyzed by the Health Division.

The term "sentinel event" is currently defined for the purposes of these reports to mean an unexpected occurrence involving facility-acquired infection, death or serious physical or psychological injury, or the risk thereof.

The measure is effective on July 1, 2011.

Roll call on Senate Bill No. 209:

YEAS—21.

NAYS—None.

Senate Bill No. 209 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 213.

Bill read third time.

The following amendment was proposed by Senator Schneider:

Amendment No. 334.

"SUMMARY—Revises provisions governing the registration requirements for employee leasing companies. (BDR 53-1018)"

"AN ACT relating to employee leasing companies; revising the requirements for the issuance or renewal of a certificate of registration to operate an employee leasing company in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain applicants for the issuance or renewal of a certificate of registration to operate an employee leasing company in this State: (1) to maintain positive working capital throughout the entire period covered by certain financial statements which the applicant is required to submit with its application; or (2) if the applicant has not maintained positive working capital throughout the specified period, to provide a bond or certain other securities with a market value equaling the maximum deficiency in working capital during the specified period plus \$100,000. (NRS 616B.679) This bill instead requires an applicant for the issuance or renewal of a certificate of registration to operate an employee leasing company in this State: (1) to have positive working capital ~~at the time~~ for the period covered by the financial statements submitted with an application ~~;~~ ; ~~are prepared;~~ or (2) if the applicant does not have positive working capital ~~at the time~~ for the period covered by the financial statements ~~,~~ ; ~~are prepared;~~

to provide a bond or certain other securities with a market value equaling the maximum deficiency in working capital ~~at the time~~ **for the period covered by** the financial statements ~~are prepared~~ plus \$100,000. This bill also requires that a financial statement which is submitted with an application be prepared not more than 13 months before the submission of the application.

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

Section 1. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his or her position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of chapter 76 of NRS.

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) A financial statement of the applicant setting forth the financial condition of the employee leasing company. Except as otherwise provided in subsection 5, the financial statement must include, without limitation:

(1) For an application for issuance of a certificate of registration, the most recent audited financial statement of the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a certificate of registration, an audited financial statement which must have been completed not more than 180 days after the end of the applicant's fiscal year.

(i) A registration or renewal fee of \$500.

(j) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally accepted accounting principles, must be audited by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the employee leasing company as a going concern. An employee leasing company that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. ~~Each~~ **The financial statements must ~~be prepared not more than 13 months before the submission of an application and must:~~**

(a) Indicate that the applicant has ~~maintained~~ positive working capital, as defined by generally accepted accounting principles, ~~throughout~~ for the period covered by the financial statements; ~~at the time the financial statements are prepared;~~ **statements; or**

(b) Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum deficiency in working capital ~~at the time the financial statements are prepared~~ for the period covered by the financial statements plus \$100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designated by the Administrator to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 334 to Senate Bill No. 213 provides that the financial statements required from certain applicants for the issuance or renewal of a certificate of registration to operate an employee leasing company must meet certain specifications.

The financial statements must either indicate that the applicant has positive working capital for the period covered by the financial statements or be accompanied by specified security with a minimum market value equaling the maximum deficiency in working capital for the period covered by the financial statements, plus \$100,000.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 218.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 218 authorizes the Nevada Gaming Commission, with advice and assistance of the State Gaming Control Board, to provide by regulation for the operation and registration of hosting centers not located at a licensed gaming establishment. Similar regulations may be established for the licensing of service providers to perform certain services on behalf of a non-restricted gaming licensee or interactive gaming licensee; or provide services or devices that patrons of licensed establishments use to obtain cash or wagering instruments.

The measure adds definitions of a "cash access and wagering instrument service provider" and an "interactive gaming service provider." A person may not operate as a cash access and wagering service provider without proper gaming licenses, and existing regulations for interactive gaming must also include licensing for service providers based on certain standards.

The bill amends the process and requirements for transferring a license upon certain changes in the business entity, and revises provisions concerning the necessary licensing of partners in a limited partnership and members of a limited-liability company. The bill also clarifies provisions concerning the unlawful use or possession of certain devices, including devices that project the outcome of games or keep track of cards played.

Finally, Senate Bill No. 218 makes various changes to administrative and operational functions of the Commission and the Board, and repeals provisions relating to the Account for investigating Cash Transactions of Gaming Licenses.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 218:

YEAS—21.

NAYS—None.

Senate Bill No. 218 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 230.

Bill read third time.

Remarks by Senator Denis.

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

Senate Bill No. 230 requires school districts and the governing body of a charter school to adopt a policy that specifies that no food containing industrially produced trans fats be purchased or provided to students. The policy will specify that trans fats will not be used in food preparation by the school district or charter school. This restriction applies to food sold on school grounds during the school days from the school cafeteria, vending machines, or school food establishments, among others. The policy must also include guidelines for parents and others concerning food brought to the school for authorized school activities, such as back-to-school and celebratory events. The policy does not apply to food made available under the federal School Breakfast Program or the National School Lunch Program.

According to testimony, although awareness is growing of the public health concerns regarding the presence of trans fats in foods and beverages, most school districts do not have a policy concerning trans fats in food that is purchased by the district for sale at its schools.

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 230:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—9.

Senate Bill No. 230 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 238.

Bill read third time.

Remarks by Senator Breeden.

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

Senate Bill No. 238 modifies the number of members and composition of the Advisory Board on Automotive Affairs, adding one representative each for licensed operators of emissions stations, motor vehicle dealers, and motor vehicle insurers. The bill also modifies the residency and professional experience requirements for appointment to the Board; makes changes to the Board's authority to call meetings; and specifies that the Chair of the Board is a non-voting member unless the vote is needed to break a tie.

The provisions in this bill which outline members' terms of office become effective upon passage and approval. The remainder of this bill is effective on July 1, 2011.

Senator Manendo disclosed that he works in the collision repair industry, and the voluntary informational advisory board would not affect him any differently than anyone else, and that he will be voting on Senate Bill No. 238.

Roll call on Senate Bill No. 238:

YEAS—21.

NAYS—None.

Senate Bill No. 238 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 245.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 245 creates the Statewide Alert System for the Safe Return of Missing Endangered Older Persons. The system is composed of a voluntary partnership among the Department of Public Safety, the Department of Transportation, State and local law enforcement agencies, media outlets, and other public and private organizations to assist in the search for and safe return of missing endangered older persons.

The bill defines the term "missing endangered older person" for the purposes of the system to mean a person who is 60 years of age or older whose whereabouts are unknown and who has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or who is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.

The Department of Public Safety is required to: adopt regulations governing the operation of the system; develop a plan for carrying out the system which sets forth the components of the system; administer the system; supervise and evaluate any training associated with the system; monitor, review, and evaluate the activations of the system for compliance with the provisions of this bill; and conduct periodic tests of the system.

The measure also prescribes the circumstances under which the system may be activated, and provides immunity from civil liability for certain persons and organizations that participate in the system. Finally, the measure provides a penalty for intentionally making any false or misleading statement to cause a law enforcement agency to activate the system.

The measure is effective upon passage and approval for the purpose of adopting regulations, and on January 1, 2012, for all other purposes.

Roll call on Senate Bill No. 245:

YEAS—21.

NAYS—None.

Senate Bill No. 245 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 248.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 248 requires a motor vehicle operator to overtake and pass a bicycle or electric bicycle if they are going in the same direction by moving the vehicle into the immediate left lane, if there is more than one lane traveling in the same direction and it is safe to move into that lane, or by passing to the left of the bicycle at a distance of not less than three feet from the bicycle or electric bicycle.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 248:

YEAS—21.

NAYS—None.

Senate Bill No. 248 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 251.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 251 creates the Nevada Sunset Commission and sets forth the qualifications of the members of the Commission who are appointed by seven different appointing authorities. The bill sets forth the duties of the Commission to include reviewing and evaluating all governmental programs and services in Nevada for necessity, efficacy, and duplication. Senate Bill No. 251 also requires the Commission to meet at least bimonthly and to annually report its findings and recommendations to the Governor and the Legislature. The Commission may apply for and receive gifts, grants, contributions, or other money to carry out its duties; however, it may not receive gifts, grants, or contributions from a governmental agency that the Commission is reviewing, examining, or evaluating.

Senate Bill No. 251 specifies that one member each of the Nevada Sunset Commission are appointed by the Governor, the Majority Leader of the Senate, the Speaker of the Assembly, the Minority Leaders of the Senate and Assembly, the Nevada Association of Counties, and the Nevada League of Cities and Municipalities. All members must be from the general public and be versed in the operation or management of state or local governments and demonstrate the knowledge, judgment, and experience to perform the duties of the Commission.

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 251:

YEAS—21.

NAYS—None.

Senate Bill No. 251 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 256.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 256 prohibits a person from knowingly or intentionally manufacturing, growing, planting, cultivating, harvesting, drying, propagating, or processing marijuana, except as specifically authorized for medical use. The severity of the punishment for a violation of this measure depends upon the number of marijuana plants involved in the violation. In addition, a person convicted of a violation is required to pay all costs associated with any necessary cleanup and disposal.

The measure specifies that certain provisions will be codified in Chapter 453 of Nevada Revised Statutes (NRS) in proximity to similar offenses involving controlled substances; and will be treated in the same manner as those offenses for other purposes in NRS, such as being included in the list of crimes related to racketeering and being included in the definition of "immorality" for the purposes of certain provisions related to educational personnel.

The measure is effective on October 1, 2011.

Roll call on Senate Bill No. 256:

YEAS—21.

NAYS—None.

Senate Bill No. 256 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 257.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 257 reduces from \$5,000 to \$500 the aggregate value of damage used to determine the penalty to be imposed for committing multiple offenses of graffiti. A person who commits the offense of graffiti on any protected site is guilty of a category C felony and will be required to serve at least 10 days in the county jail as a condition of any probation granted.

The court may also order restitution and require an offender to participate in counseling. If the offender is under the age of 18, the court may also order the offender's parent or legal guardian to attend or participate in counseling.

Finally, the measure requires a person convicted of a third offense to perform up to 300 hours of community service for up to a year, including cleaning up, repairing, replacing, or keeping clean of graffiti the damaged property or another specified site.

This bill defines a "protected site" to mean: a site, landmark, monument, building or structure of historical significance pertaining to the history of the settlement of Nevada; any Indian campgrounds, shelters, petroglyphs, pictographs, and burials; or any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground, or sites of religious or cultural importance to an Indian tribe.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 257:

YEAS—21.

NAYS—None.

Senate Bill No. 257 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 259.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 259 revises provisions governing the management of a trust by a family trust company or a licensed family trust company. The bill specifies the applicability of the Uniform Prudent Investor Act to a trust managed by such companies.

Senate Bill No. 259 makes specific provision regarding aspects of trust management including liability for an act or decision made in good faith and in reasonable reliance on the terms of a trust instrument, consent agreement, or court order; investment in certain securities; entry into and compliance with a non-judicial settlement agreement; provision of annual reports to an interested person; and transactions with a family affiliate.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 259:

YEAS—20.

NAYS—Breedon.

Senate Bill No. 259 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 260.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 260 sets forth an alternative procedure for creating a local improvement district that includes a renewable energy project or an energy efficiency improvement project. The bill authorizes a governing body to adopt an ordinance creating an improvement district and ordering such a project to be acquired or improved. The governing body may contract with a person to construct or improve a renewable energy project or an energy efficiency project, issue bonds, or otherwise finance the cost of the project and levy assessments on assessable property. The local government is exempt from the provisions in State law setting forth a hearing procedure on the creation of local improvement districts if the governing body issues a provisional order to form the improvement district for a renewable energy project or an energy efficiency improvement project; and the governing body receives written agreement from the owners of assessable property in the proposed local improvement district.

Finally, the bill specifies that the governing body may not include a tract in the assessable property of such a local improvement district unless the owner or owners of the tract apply to the governing body to have the tracts included.

Nevada Revised Statutes 271.099 defines "energy efficiency improvement project" as "the modification of real property or the facilities or equipment on the real property that is designed to reduce the energy consumption of the real property."

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 260:

YEAS—21.

NAYS—None.

Senate Bill No. 260 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 261.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 261 provides that a fire protection district in Clark County which has been in existence for at least two years may be reorganized and that two or more fire protection districts may be combined and reorganized into one fire protection district. The reorganization or combination of such fire protection districts may be initiated by a petition signed by at least a majority of the owners of property located within the district or districts or by a resolution of the Board of County Commissioners. The bill sets forth the procedure for reorganization, including public notice requirements; public hearing procedures for the Board of County Commissioners in Clark County; the adoption of an ordinance by the Board of County Commissioners; the placement of the reorganization question on the ballot if the Board does not adopt such an ordinance; and the appointment and election of district directors to the reorganized fire protection district.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 261:

YEAS—21.

NAYS—None.

Senate Bill No. 261 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 268.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 268 allows a properly certified or licensed design professional, which includes a registered professional engineer, architect, landscape architect, or land surveyor, to qualify to receive a 5 percent bidder's preference when competing for a public works project. In order to receive the preference, the design professional must submit proof to the appropriate licensing board for the design professional that he or she has paid an excise tax, based on the sum of all wages, of not less than \$1,500 annually for five consecutive years. If this criteria is met, the appropriate licensing board for the design professional shall issue to the design professional a certificate of eligibility for a preference. A design professional may also qualify for the preference if he or she acquires all the assets and liabilities of a viable design professional practice that possesses a certificate of eligibility to receive the preference; and employs in his office or place of business a certified design professional who is a Nevada resident and is regularly working in that office or place of business.

The bill establishes penalties for a design professional who submits false information to the licensing board regarding the payment of the excise taxes and sets forth the timeframe under which a public body may enter into a contract with a design professional who is not a member of a design-build team. Finally, the measure requires the public body or the Nevada Department of Transportation, as the case may be, to publicize certain information regarding the selection of a design-build team that includes design professionals for the public work and transmit such information to the appropriate licensing boards for the design professionals.

Provisions of the bill requiring the various design professional licensing boards to adopt regulations regarding the bidding preferences by October 1, 2011, are effective upon passage and approval. The remainder of the bill is effective on October 1, 2011.

Roll call on Senate Bill No. 268:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, McGinness, Roberson, Settelmeyer—7.

Senate Bill No. 268 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 273.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 273 makes various changes to the practice of osteopathic medicine. The bill authorizes the practice of telemedicine under specified conditions. It authorizes the State Board of Osteopathic Medicine to place any condition, limitation, or restriction on any license issued by the Board if the Board determines such action is necessary to protect the public health, safety, or welfare.

An osteopathic physician who performs an autopsy and who determines that death is the result of an overdose of a controlled substance or dangerous drug shall submit a written report to the Board.

Senate Bill No. 273 makes changes to the requirements for post-graduate medical training required for licensure to practice osteopathic medicine. It also modifies the requirements for licensure by endorsement to practice osteopathic medicine.

The measure requires osteopathic physician assistants to complete annual continuing medical education courses as a condition of license renewal and clarifies that certain statutes relating to osteopathic physicians also apply to osteopathic physician assistants.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 273:

YEAS—21.

NAYS—None.

Senate Bill No. 273 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 277.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 277 prohibits, under certain circumstances, a minor from using an electronic communication device to possess, transmit, or distribute a sexual image of himself, herself, or another minor. If the images transmitted are of himself or herself, the minor is considered a minor in need of supervision for the first offense and a delinquent for a second or subsequent offense. If the images are of another minor, the minor in willful possession of the images is a child in need of supervision, but if the image is transmitted or distributed, the minor commits a delinquent act.

The measure provides an affirmative defense if the minor who possesses the image did not knowingly purchase or solicit it and promptly destroys the image or reports it to a school official or law enforcement.

Finally, Senate Bill No. 277 revises the definition of "cyber-bullying" to clarify that the term includes the use of electronic communication to transmit or distribute a sexual image of a minor. This measure is effective on July 1, 2011.

Roll call on Senate Bill No. 277:

YEAS—21.

NAYS—None.

Senate Bill No. 277 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 281.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 281 requires the Public Utilities Commission of Nevada (PUCN) to establish the Electric Vehicle Demonstration Program to carry out the legislative intent of registering at least 1,500 electric vehicles in Nevada before January 1, 2016. The Commission shall adopt regulations which, without limitation, establish eligibility qualifications for participants; the type and amount of financial incentives, which must not exceed \$3,000 per participant; requirements for a utility's annual plan for administering the Program; and procedures for inspection and verification of a participant's electric vehicle.

Senate Bill No. 281 provides that a person who owns or operates a charging station that supplies electricity for an electric vehicle is not a public utility and, therefore, is not subject to the jurisdiction of the PUCN.

The PUCN is required to submit a report to the Director of the Legislative Counsel Bureau on or before July 1, 2012, regarding the criteria used to determine the level and amount of incentives; the anticipated benefits of the Program; and any recommendations concerning the Program.

This bill is effective on July 1, 2011.

Senator Denis disclosed that he is an employee of the Public Utility Commission. This will not impact him one way or another. He stated he did not own an electric vehicle but did own a hybrid and would be voting.

Roll call on Senate Bill No. 281:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Senate Bill No. 281 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 284.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 284 prohibits the court from entering a final order modifying the terms of an existing custody or visitation order until after a parent or legal guardian who is a member of the military, and who has sole or joint custody or visitation of a child, returns from deployment.

The court may temporarily modify the order to reasonably accommodate the deployment of a parent. However, the bill creates a rebuttable presumption that the temporary order must revert

to the original order unless it is not in the best interests of the child. If the court temporarily modifies the order, it must ensure the ability of the deployed parent to maintain frequent and continuing contact with the child by reasonably available means.

The measure provides that deployment or the potential for future deployment does not constitute a substantial change in circumstances sufficient to warrant a permanent modification of an order, and authorizes delegation of the deployed parent's visitation rights to a family member under certain circumstances.

Finally, the court is required to hold an expedited hearing or allow the parent to present testimony and evidence by electronic means if the parent's ability to appear in person is materially affected by his or her current or pending deployment.

The measure is effective on October 1, 2011.

Roll call on Senate Bill No. 284:

YEAS—21.

NAYS—None.

Senate Bill No. 284 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 288.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 288 includes Indian tribes and tribal organizations in the Waterpower Energy Systems Demonstration Program, and extends the prospective expiration of the program until June 30, 2016. It also expands the capacity of the program to 5 megawatts. At least 1 megawatt of that amount must be allotted to systems with a capacity of 100 kilowatts or less. Rebates under the program must not exceed 50 percent of the total cost of a system.

The bill amends the net metering program to accommodate certain systems serving contiguous property, including property that is separated by a street, alley, creek, river, or certain rights-of-way.

This bill is effective upon passage and approval for the purpose of extending the prospective expiration of the Waterpower Energy Systems Demonstration Program, and on July 1, 2011, for all other purposes.

Roll call on Senate Bill No. 288:

YEAS—21.

NAYS—None.

Senate Bill No. 288 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 294.

Bill read third time.

Remarks by Senators Schneider and Leslie.

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

SENATOR SCHNEIDER:

Senate Bill No. 294 defines a "medical assistant" and authorizes a medical assistant who is supervised by a physician or physician assistant to possess and administer a dangerous drug. A

veterinary assistant may also possess and administer a dangerous drug at the direction of a supervising veterinarian.

The bill provides that a person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a dangerous drug except under certain specific circumstances.

The Board of Medical Examiners and the State Board of Osteopathic Medicine may adopt regulations governing the supervision of a medical assistant, including without limitation, regulations that prescribe limitations on the possession and administration of a dangerous drug by a medical assistant. Failure to supervise adequately a medical assistant pursuant to the regulations adopted by the Boards constitutes grounds for disciplinary action.

This bill is effective upon passage and approval for the purpose of adopting regulations, and on January 1, 2012, for all other purposes.

SENATOR LESLIE:

Thank you, Mr. President. I would like to thank my colleague, Senator Cegavske, for all of her work on the bill. I did not do anything. She did all of the work, but still put my name on it.

Roll call on Senate Bill No. 294:

YEAS—21.

NAYS—None.

Senate Bill No. 294 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 304.

Bill read third time.

Remarks by Senator Parks.

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

Senate Bill No. 304 proposes revisions to the charters of Carson City, Henderson, Reno, and Sparks. Existing charters require members of the governing bodies to be selected by ward in the primary elections, followed by city-wide vote in the general election. Contingent upon voter approval, a candidate will be voted upon in a primary or general election only by the voters of the ward. A sixth ward is created for Reno, eliminating the at-large council member. Each city governing body must place the question of charter revision on the November 6, 2012, ballot.

The bill is effective upon passage and approval. Revisions to charters become effective on July 1, 2013, only if approved by a majority of the voters.

Roll call on Senate Bill No. 304:

YEAS—21.

NAYS—None.

Senate Bill No. 304 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 309.

Bill read third time.

Remarks by Senator Manendo.

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

Senate Bill No. 309 authorizes a person to remove from his or her property an animal for which the person has, by contract, provided care or shelter. After appropriate notification and under specific circumstances, the animal is deemed to be abandoned and the person may sell the animal; give the animal to a society for the prevention of cruelty to animals; return the animal to

the owner at the owner's present address; transfer the animal to another facility; or bring a civil action to require the owner to remove the animal.

If the owner fails to remove the animal, the person providing care and shelter for the animal may charge and collect reasonable and actual costs incurred in removing the animal.

This bill is effective on October 1, 2011.

Roll call on Senate Bill No. 309:

YEAS—21.

NAYS—None.

Senate Bill No. 309 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 318.

Bill read third time.

Remarks by Senators Denis, Settelmeyer, Parks, Kieckhefer, Brower and Cegavske.

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

SENATOR DENIS:

Senate Bill No.318 provides that new school buses purchased after January 1, 2014, must meet certain fire safety standards concerning the flammability of occupant seat material and for plastic components within the engine compartment.

According to testimony, most of the "thermal incidents" involving Nevada school buses occurred within the engine compartment due to leaking fuel lines. The plastic components covering electronic devices within the engine compartment will now be required to meet Underwriter Laboratory standards, removing that as an ignition source for a fire.

The bill is effective on July 1, 2011.

SENATOR SETTELMAYER:

I appreciate the bill changing. I think it is no longer requiring a retrofit of seats, because that was about \$500 per seat. Now it only applies to when you purchase new equipment. Then you do not have to retrofit. What will the cost be to the school district when buying a new bus?

SENATOR PARKS:

Thank you, Mr. President. The application for this would be for buses that would be acquired after the date January 1, 2014. If put in service after that date, they would have to be constructed with materials that have a flammability resistance. The cost is minimal. My experience goes back 20 years when purchasing transit buses that required fabric seating. The cost difference was minimum. Less than a few dollars per bus overall.

SENATOR KIECKHEFER:

I appreciate the issue of trying to keep children safe on the bus. Do we require them to wear seat belts on the school bus?

SENATOR PARKS:

No.

SENATOR BROWER:

I want to disclose that a member of my law firm testified in support of this bill. After conferring with legal counsel I do not have a conflict. I will vote on this bill.

SENATOR CEGAVSKE:

Thank you, Mr. President. I have been concerned about this. It is another unfunded mandate for the school districts. They did not present a fiscal note to us in the hearing. It is something that

is different. The school districts have a national standard for their buses. This puts an additional mandate on them, not only for the seating that is non-flammable material, but it also requires that there is plastic under the hood. It is a new set of requirements that would go under the hood for the engine. They stated that in the State of Nevada, Clark County had none to report. There were a few engine fires in other parts of the State. I still have concerns that this is an unfunded mandate for the school districts. They all agreed on that. There was some confusion in this, but they still say it is an unfunded mandate.

SENATOR DENIS:

In Committee, one of the things we found out was that there were ten thermal incidents in the State and all of them were in the engine compartments. Currently there is no standard for those. This would put in place a standard for the plastic components that are under the hood. That is where the issues are when there is a fire on a school bus. That would be a minimal cost.

Roll call on Senate Bill No. 318:

YEAS—19.

NAYS—Cegavske, McGinness—2.

Senate Bill No. 318 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 361.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 361 authorizes a person to apply to the State Engineer for the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire. Unless extended by the State Engineer, the duration of such a temporary permit is limited to one year. The bill exempts such an application from several requirements in existing law for applications for permits concerning water rights, including publication of notice of the application in a newspaper and authorization for the filing of protests against the granting of the application.

Finally, Senate Bill No. 361 requires the State Forester Firewarden, upon the request of the State Engineer, to review the plan for establishing the vegetative cover that is required to be submitted by the applicant for the temporary permit.

The bill is effective upon passage and approval.

Roll call on Senate Bill No. 361:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 376.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 376 increases from a misdemeanor to a category E felony the penalty for anyone who knowingly, willfully, and without authorization, interferes with the use of a computer, system, or network; or uses or accesses a computer, system, network, telecommunications device, telecommunications service, or information service.

This measure adds as a category C felony the act of attempting to cause a financial loss to the victim in excess of \$500, if that act involved such technology crimes.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 376:

YEAS—21.

NAYS—None.

Senate Bill No. 376 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 392.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 392 creates the Nevada Advisory Committee on Intergovernmental Relations as a statutory committee consisting of 13 members representing the Nevada Legislature, local governments in Nevada, and the Executive Branch of the State of Nevada.

Senate Bill 392 was a recommendation of the 2009-2010 Legislative Commission's Committee to Study Powers Delegated to Local Governments, which received suggestions and heard testimony from the Interim Technical Advisory Committee on Intergovernmental Relations. The Committee created by this bill shall serve as a forum for the discussion and resolution of intergovernmental challenges and is charged with engaging in numerous activities and conducting studies relating to: (1) local government structure; (2) powers of local government, including various functions and fiscal powers; (3) State and local government relationships; (4) the allocation of resources at the State and local levels; and (5) making recommendations for legislation made to the Chairs of the Senate and Assembly Committees on Government Affairs. The Nevada Advisory Committee on Intergovernmental Relations is also required to prepare and submit to the Nevada Legislature, on or before July 1 of each year, a report setting forth the activities and findings of the Committee during the previous year. Administrative support for the Committee shall be provided by the Nevada Association of Counties and the Nevada League of Cities and Municipalities.

Provisions relating to the appointment of members to the Committee are effective upon passage and approval. The remainder of the bill is effective on July 1, 2011. The measure expires by limitation on June 30, 2015.

Roll call on Senate Bill No. 392:

YEAS—19.

NAYS—Halseth, Kieckhefer—2.

Senate Bill No. 392 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 393.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 393 provides that when an unincorporated town in Clark County annexes territory, the territory annexed along with its inhabitants and property are subject, beginning in the fiscal year following the effective date of annexation, to all debts, laws, ordinances, and regulations in force in the annexing town. The territory and its inhabitants are entitled to the same privileges and benefits as other parts of the annexing unincorporated town.

Testimony on Senate Bill No. 393 indicated that under existing law, when a city annexes territory, that territory and its inhabitants and property become subject to the debts, laws, ordinances, and regulations of the city and are entitled to the same privileges and benefits as other parts of the city. Senate Bill No. 393 establishes the same provisions for an unincorporated town that annexes territory in a county with a population of 700,000 or more.

The bill is effective on July 1, 2011.

Roll call on Senate Bill No. 393:

YEAS—21.

NAYS—None.

Senate Bill No. 393 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 402.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 402 revises provisions concerning loans secured by deeds of trust. Specifically, the measure amends a statutory covenant that may be adopted by reference in the deed of trust to allow the parties to either pay, in connection with a trustee's sale, reasonable counsel fees and actual costs incurred or counsel fees in an amount equal to a specified percentage of the property secured by the deed of trust.

The bill also describes methods of specifying assumption fees and requires a foreclosure sale of commercial property to be conducted at the location specified in the notice of sale.

Finally, Senate Bill No. 402 revises provisions limiting the amount of certain secured interests included in the term "indebtedness" for the purpose of foreclosure sales and deficiency judgments. It also concerns impound accounts for the payment of certain obligations.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 402:

YEAS—21.

NAYS—None.

Senate Bill No. 402 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 403.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 403 revises the information that must be provided in a resale package by a unit's owner to a purchaser. Specifically, the statement concerning assessments must come from the association and must include information on any unpaid assessment such as management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees, and attorney's fees due from the seller. The statement remains effective for at least 15 working days, and the association may deliver a replacement statement if it becomes aware of an error before completion of the resale.

This measure is effective on October 1, 2011.

Roll call on Senate Bill No. 403:

YEAS—21.

NAYS—None.

Senate Bill No. 403 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 406.

Bill read third time.

Remarks by Senator Breeden.

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

Senate Bill No. 406 requires the Department of Motor Vehicles to waive two types of fees owed by military personnel in the event the service member's driver's license renewal or vehicle registration is late due to the member being deployed. Those two fees are the late fee charged by the Department for both overdue vehicle registrations and license renewals and a penalty on the late payment of the governmental services tax for vehicle registrations only.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 406:

YEAS—21.

NAYS—None.

Senate Bill No. 406 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 411.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 411 provides for the certification and regulation of a nursing assistant as a medication aide-certified by the State Board of Nursing. The bill prescribes the requirements for certification and the duties a medication aide-certified may perform.

The Board shall designate by regulation the types of medical facilities that may employ a medication aide-certified. A medication aid-certified may possess and administer certain drugs and medicines at a designated facility under the supervision of an advanced practitioner of nursing or a registered nurse, in accordance with protocols developed by the Board.

This bill is effective upon passage and approval for the purpose of adopting regulations, and on October 1, 2011, for all other purposes.

Roll call on Senate Bill No. 411:

YEAS—20.

NAYS—Leslie.

Senate Bill No. 411 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 417.

Bill read third time.

Remarks by Senator Manendo.

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

Senate Bill No. 417 requires regulations concerning recycling containers that are adopted by the State Environmental Commission and the Division of Environmental Protection in the State Department of Conservation and Natural Resources to include provisions for the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.

This bill is effective upon passage and approval for purposes of adopting regulations, and on October 1, 2011, for all other purposes.

Roll call on Senate Bill No. 417:

YEAS—21.

NAYS—None.

Senate Bill No. 417 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 432.

Bill read third time.

Remarks by Senators Leslie, Roberson, Halseth, Hardy and Schneider.

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

SENATOR LESLIE:

Senate Bill No. 432 authorizes the Regional Transportation Commission (RTC) in Clark and Washoe Counties to issue revenue bonds and other revenue securities to fund the construction and maintenance of road projects, public transit systems and projects to improve air quality, if the RTC has executed an interlocal agreement with the county.

The bill removes certain requirements for the cessation of the sales tax imposed for infrastructure projects in Clark County and also removes the prohibition on the issuance of bonds, based on a specified date or the amount of proceeds collected from the sales tax.

The bill also extends the period of time for which general obligation bonds may be issued for a water facility or a wastewater facility, from 30 years to 40 years.

SENATOR ROBERSON:

Thank you, Mr. President. Sections 8 through 14 of this bill refer to the Southern Nevada Water Authority. Section 8 removes the sunset date and leaves the imposition of the tax open ended. While the voters approved the 0.25 percent sales tax in 1998, the question did not contain the sunset, the explanation did contain the sunset. I will vote "no" on this bill.

SENATOR HALSETH:

I also rise in opposition to Senate Bill No. 432. In addition to the concerns of my colleague from Clark County District No. 5, section 10 extends the potential life of the GO bonds from 30 to 40 years. There will be a substantial increase in interest that will have to be paid.

SENATOR HARDY:

I will vote in favor of this bill. It continues a current tax opportunity for bonding. I look at this through my "jobs" glasses and recognizing there is a water issue that is critical for my district and all of the projects they need to have, as well as this place called Clark County still needs a drink of water.

SENATOR SCHNEIDER:

Thank you, Mr. President. This is about water for the future. Yes, it costs money. It is not free to build a straw into the lake as deep as they want to go. You cannot put this off. We had a good water year this year, but we have had ten bad years. Next year, we could start 50 years of drought. We do not know, but we must be ready. It is critical for Las Vegas that we have this

straw. I stand in support and urge all Clark County people to keep an open mind on this unless they want to bathe in Evian water.

Roll call on Senate Bill No. 432:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, Roberson, Settlemeyer—7.

Senate Bill No. 432 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

SENATOR HORSFORD:

I find the vote we just took fascinating because the section dealing with the RTC is the exact same bill we passed, S.B. 5 of the Twenty-sixth Special Session, unanimously by this body. It was good enough then, but it is not good enough now. People are losing their jobs. We talk about economic development and growth and then southern Nevada members vote against their own constituents' interest. I do not understand it.

GENERAL FILE AND THIRD READING

Senate Bill No. 488.

Bill read third time.

Remarks by Senator Schneider.

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

Senate Bill No. 488 provides that the Public Utilities Commission of Nevada shall require a utility that supplies electricity in this State to include certain provisions relating to transmission facilities in its triennial resource plan. The plan must include plans for transmission facilities to support the construction of renewable energy facilities, without regard to the location of the purchaser of energy from such renewable energy facilities; provisions to serve the transportation needs of the utility; and provisions to serve any renewable energy facility that delivers energy outside the service territory of the utility and that requests interconnection with the utility.

The plan may propose the sighting, permitting, or construction of a transmission facility or corridor in phases. A utility may recover reasonable expenses for any sighting, development, and permitting of a corridor that is conducted without inclusion in the statutorily required plan.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 488:

YEAS—21.

NAYS—None.

Senate Bill No. 488 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 495.

Bill read third time.

Remarks by Senator Leslie.

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

Senate Bill No. 495 amends the Nevada Taxpayers Bill of Rights to establish that the sales and use tax administered throughout the counties of this State must be uniform and equal within each county so that all areas of each county, and all taxpayers within a county, are subject to an equal rate of sales and use tax.

The bill also establishes that a special district for which a sales and use tax is imposed may not be created in a portion of a county if it would cause the rate of sales and use tax in that portion of the county to be higher than other portions of the county.

Pursuant to Section 2 of Article 19 of the *Nevada Constitution*, the provisions of Senate Bill No. 495 provide for a competing measure to Initiative Petition No. 1 to be placed on the ballot at the general election held on November 6, 2012.

Roll call on Senate Bill No. 495:

YEAS—21.

NAYS—None.

Senate Bill No. 495 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 8.

Resolution read third time.

Remarks by Senator Manendo.

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

Senate Joint Resolution No. 8 notes that Nevada has vast deposits of minerals located throughout the State and that mining is an important industry in the State. The resolution observes that mining exploration and activities occur entirely or partially on federal land, and permits must be secured for those activities from the Bureau of Land Management and the United States Forest Service. The resolution urges Congress to direct various federal government agencies to expedite the permitting process for mineral exploration and the development of mines in this State.

This resolution is effective upon passage.

Roll call on Senate Joint Resolution No. 8:

YEAS—20.

NAYS—Leslie.

Senate Joint Resolution No. 8 having received a constitutional majority, Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

Assembly Bill No. 30.

Bill read third time.

Remarks by Senator Breeden.

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

Assembly Bill No. 30 expands the list of divisions or offices within the Departments of Motor Vehicles and Public Safety that may be authorized to obtain permits from the Department of Motor Vehicles to own and operate authorized emergency vehicles.

This bill expressly authorizes the issuance of such permits for vehicles owned and operated by the Capitol Police Division, the Investigation Division, the State Fire Marshal Division, the Training Division, the Office of the Director of the Department of Public Safety, and enforcement vehicles for emissions and special fuel programs in the Department of Motor Vehicles.

The bill also transfers from the Department of Motor Vehicles to the Department of Public Safety the statutory authority to establish standards for certain equipment for emergency vehicles and to issue permits for those vehicles.

This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 30:

YEAS—21.

NAYS—None.

Assembly Bill No. 30 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 144.

Bill read third time.

Remarks by Senator Kihuen.

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

Assembly Bill No. 144 adds five criteria that must be met to qualify for the 5 percent bidding preference on State and local public works projects. The applicant must submit a signed affidavit certifying that the criteria will be met for the duration of the project. The additional criteria are: at least 50 percent of the workers must have a Nevada driver's license or identification card; vehicles must be registered in Nevada or be partially apportioned to Nevada; at least 50 percent of the design professionals working on the project must have a Nevada driver's license or identification card; at least 25 percent of the suppliers of the materials used must be located in Nevada; and certain payroll records must be maintained and available in Nevada. The bill also requires the contractor to maintain, for all workers on the project, a list of the driver's license and identification card numbers.

The public works contract must contain the five criteria and provide that failure to comply with the criteria constitutes a material breach entitling the public body to liquidated damages equal to 10 percent of the contract's cost. The contract must also contain a provision to apportion the liability for damages for a material breach between the contractor and subcontractor in proportion to each party's liability for the breach. A contract not in compliance with this bill shall be void. A contractor who receives a preference and breaches the contract shall be penalized as follows: if the cost of the contract exceeds \$5 million, the contractor shall lose the preference certification for five years; or if the contract exceeds \$25 million, the contractor shall be barred from bidding on public works projects for one year.

A person may file a written objection with the public body to a proposed or awarded contract, along with supporting proof, alleging that the criteria are not being met. The public body must review the objection and supporting proof and determine whether the criteria are being met. If the public body determines the criteria are not being met, the contract may be awarded to another bidder or the public body may seek liquidated damages. Breaches shall be reported to the State Contractors' Board and the information shall be retained for at least six years.

The bill is effective upon passage and approval.

Roll call on Assembly Bill No. 144:

YEAS—21.

NAYS—None.

Assembly Bill No. 144 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

WAIVERS AND EXEMPTIONS NOTICE OF EXEMPTION

April 22, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 113, 212, 375.

Mark Krmpotic
Fiscal Analysis Division

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 220; Senate Resolution No. 4.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Marvin Moss Elementary School: Naomi Alvarez, Jessenia Araiza, Ana Ayala, Jose Barrera, Ty Carmack, Taesha Crain, Tyler Fairchild, Savannah Franz, Ana Gil, Andrew Gorum, Fay Guerrero, Sarah Kerney, Sam Legott, Bryan Oaxaca, Kaitlin Maher, Ibeth Molina, Adam Moore, Aylianna Partida, Nathaniel Pascual, Rueben Ruiz, Alexia Sanchez, Kameron Soubiea, Natasha Spalka, Heather Velazquez, Monica Villa, Jovannah Lefler-Beck, Kendyl Perkins, Kenia Aguirre, Taylor Anderson, Stephanie Baldwin, Morgan Bennett, Alexander Contreras Ortega, Garrett Davidson, Liberty Fleming, Alejandro Garcia, Brennan Gilmore, Trey Harry, Meredith Hoppe, Mikayla Hunt, Caitlyn Jones, Kendall Kantor, Aidan Keppel, Daniel Makoutz, Javonna Malizia, Moises Martinez Camarena, Coard McKim, Thomas Obacka, Manmit Parmar, Daniela Serratos Segura, Megan Sewell, Amy Jo Sitkoff, Jakob Sprague, Darius Vandyke, Dakotah Walters, Justin Wolcott, Hannah Anderson, Audrey Bautista, Gage Bennett, Teagan Ciesynski, Trinton Cook, Reece Davis, Tanner Dimmitt, Ryan Durbin, Sadi Floyd, Ashley Haynes, Autumn Hicks, Nicholas Howe , Alesah Jim, Kevin Looc, Konstantina Mason, Ronalisa Nena, Shelby Petersen, Tyler Scott, Carolina Serrano, Donte Smith, Caleb Springmeyer, Kye Steiner, Trinity Sublett, Monica Valdez, Alyssa Wellesley, Taeshaun Crain, Christopher Mason and Michaela Gamboa.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Ella Grace Horsford.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Bill Brady.

Senator Horsford moved that the Senate adjourn until Monday, April 25, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 6:12 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate